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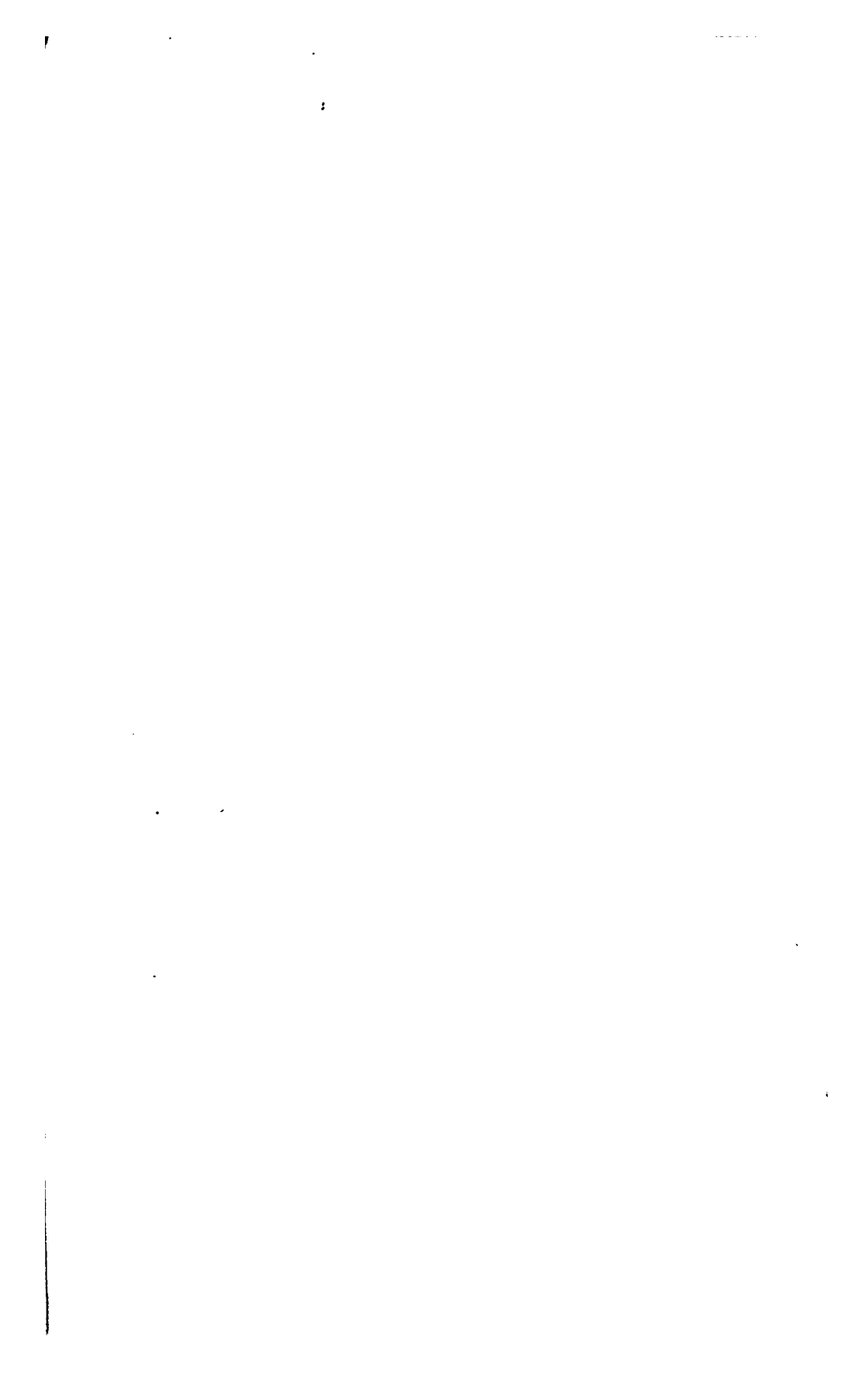


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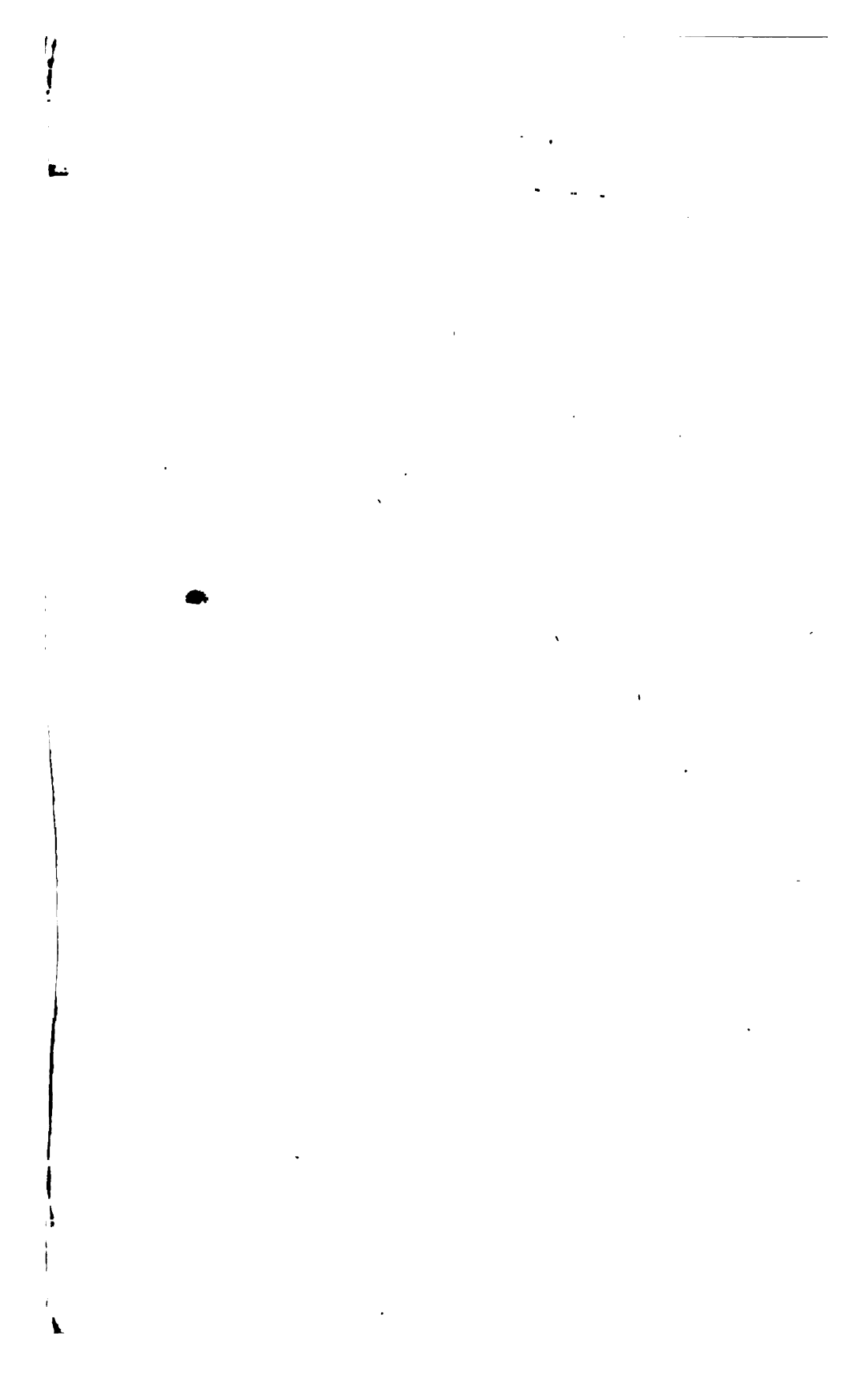
Sullivan

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1851 A



James Sullivan



L I F E
OF
JAMES SULLIVAN:

WITH
Selections from his Writings.

BY
THOMAS C. AMORY.

VOLUME I.



BOSTON:
PHILLIPS, SAMPSON AND COMPANY,
12 WINTER STREET.

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PREFACE.

It is now fifty years since the subject of the following memoir closed his eyes upon the world. Most of his cotemporaries have disappeared from among the living; and other generations, with new objects of interest, have taken their place. Should any one be disposed to ask, why remove the veil which time had been silently weaving, let him be patient and see if the narrative does not furnish its own justification.

The circumstances which led to its preparation were somewhat accidental; and, when the author commenced the collection of his materials, they were designed for a less ambitious purpose than the present publication. It is well known to many persons that there is in New England one who has devoted a large portion of his life to exploring and illustrating its ancient cemeteries. While pursuing his vocation among the tombs of the Granary Burial-ground, in Boston, his attention was attracted to a marble monument bearing two inscriptions; one that of Richard Bellingham, the other of James Sullivan, who, at the interval of a century and a half, had died chief magistrates of Massachusetts. Desirous of learning more of the latter than could be found in biographical dictionaries, he was directed to me as a descendant. The endeavor to meet his wishes involved a more arduous task than was anticipated, but which, if laborious, has had its pleasures.

In following the busy footsteps of one whose memory I had been early taught to venerate, and who, at a period unusually eventful, had been incessantly engaged in important public employments, materials rapidly accumulated; and, what was originally intended as a brief sketch for family use, imperceptibly extended itself over these pages. Friends who are acquainted with our early annals as a state, encourage the persuasion that they may find favor with a wider circle of readers, and not be unacceptable to that steadily increasing class among us, who kindly welcome all contributions to *American Biography*.

These contributions, it is true, have of late been numerous. But the history of our country cannot be made too familiar; and its study, from different points of view, serves to fix in the memory its leading incidents, and corrects erroneous impressions. With the development and extension of republican institutions, our revolutionary epoch increases in importance. Ages far removed will derive from its teachings their best lessons of political wisdom, and kindle at its sacred altars a more zealous devotion to the principles of civil liberty, which were hallowed by the exertions and sacrifices of its patriots. The biographies of such as, in field or council, contributed to its successful issue, must ever prove its best illustration; and, fortunately for the country, those whose virtues and services are justly entitled to be thus commemorated were neither few in number nor confined to any particular locality. With the lapse of time, as we become more intimately blended into one people, their fame will be our common inheritance, and their example and precepts, if carefully cherished, strengthen the general attachment of all to that constitutional freedom which they nobly achieved and wisely established.

The part which James Sullivan took in the heroic struggle

has been mainly developed from official records, and the reader can judge for himself as to the character of his public services. While every caution has been used not to give him credit without good authority, justice to his memory demanded that no unseasonable reserve should withhold expressions of praise where they were honestly due. It was, however, with no view of asserting or vindicating for his memory a place in the grateful estimation of his countrymen, that this work has been pursued; but from the conviction that his career, connected as it was with momentous events and important enterprises and negotiations, ought to be better known, and that a faithful narrative of its more prominent incidents would preserve, for future historians, many valuable facts which might otherwise escape their attention.

Long in the enjoyment of the most extensive practice at the bar of the commonwealth, for six years on its supreme bench, and for seventeen at a later period its attorney-general, his professional life embraced a wide range of experience. The memory of much of this has perished forever; but, from the recollections of members of the legal brotherhood, who were entering upon practice as he was leaving it, some few anecdotes and entertaining particulars have been gleaned, while several more have been transmitted in his own family, or through other channels. It may be regretted that no earlier efforts were made to collect these traditions, as much curious knowledge of the professional habits and customs of former days might thus have been saved. The bar abounded in men of ability, profound learning, and distinguished eloquence. Their names are still familiar as household words; but both their public and forensic achievements are settling fast into oblivion. It is a truth of general recognition that the most transcendent abilities in the practice of the law, however highly they may

be appreciated in the day of their exercise, are quickly forgotten when the voice of the orator is silent in the tomb. Books of reports may exhibit some faint trace of his labors, and occasionally an address to a county bar pay tribute to his hard-earned laurels ; and where professional merit is stamped with the seal of high judicial dignity, or crowned with the distinctions of political life, he may be longer remembered ; but the greater number die and leave behind them little mark of their existence. Mr. Knapp, in his sketches, has preserved many interesting reminiscences of these ancient worthies, which, but for his timely efforts, must have been irrevocably lost. His notice of Sullivan contains various facts and instructive views, which we could not hope to present so happily embodied in our own narrative as in their original form ; and, his book being out of print, his memoir is appended to our own, to give a more complete and faithful representation of our subject.

But, responsible and unremitting as were Sullivan's toils at the bar, of which he was long an acknowledged leader, it is rather his political than professional life which is best entitled to be remembered. From early manhood, for the space of forty years, embracing the whole period of the Revolution, and closing amidst the gloomy agitations of the Embargo, he was engaged in the discharge of various public duties. He took a prominent part in the deliberations, and in many of the most important measures, of those troubled times ; contributing, by his speeches and writings, to the successful establishment of our national liberties, and to the organization of both state and federal governments upon secure foundations.

At the head of one of the two great parties into which the people of the state were for many years nearly equally divided, and the chief executive at a crisis threatening the stability of

our institutions, his history is, in some respects, coincident with that of Massachusetts. To all who would seek, by the aid of past experience, to be prepared for similar conjunctures when they come, — as come they doubtless will in our future progress, — the history of the state cannot be too frequently made a subject of investigation. The view of our early political controversies, most generally presented by historical writers, has been from the side of the federalists. Without meaning to impeach the fairness of their intentions, it is obvious that, to arrive at just conclusions, we must divest ourselves of all partisan prejudices, and examine with equal candor the professions, policy and measures, of both parties. Sullivan was a consistent republican, and, if his writings and opinions are a correct expression of their sentiments, the republicans were as reasonable, just and patriotic, as their opponents.

James Sullivan was an indefatigable writer. Besides his professional, historical and political publications, his contributions to the public press on a great variety of subjects are numerous, evincing the greatest activity of mind and the most untiring industry. They continue in an almost uninterrupted series throughout his public life, affording not only a most complete exposition of the growth and development of his own political sentiments, but likewise a faithful record of the great questions and events which successively interested or agitated public opinion. Many of these have been introduced into the following pages, while others, with a selection from the great variety of his state papers on the files of the government, are reserved for a future publication.

The recent measures adopted by the Legislature of Massachusetts to preserve, arrange and render accessible, its valuable archives in the state department and other public offices, are worthy of all praise. It has been hitherto impossible to ascertain many important particulars of our early history, as

the original documents, in which alone they were recorded, to save room needed for other purposes, had been boxed up and deposited, quite out of reach, in damp and murky corners of the state-house. In the enlargement of the building, space has been found for their orderly arrangement in fire-proof apartments. Copious tables of contents, explanatory of each paper, with good general indexes, place within the reach of the inquirer these rich stores of historical material, of constantly increasing value, a considerable portion of which have been, only recently, for the first time since they were originally filed away, brought to the light.

To the gentlemen who have charge of these valuable collections, and to many others who have supplied materials, or encouraged by their advice and good wishes the prosecution of my work, this occasion is gladly embraced for grateful acknowledgment. Should it prove fortunate in imparting information to the reader, or in contributing to his entertainment, a principal source of satisfaction will be in the reflection that this assistance has not been uselessly bestowed.

It is not from any wish to disparage his own labors, and certainly not with any design of disarming criticism by timely admission, that the writer is obliged to confess he has had no experience and can boast of no skill in authorship. Had the many imperfections, which are sufficiently glaring on the printed page, been equally obvious in manuscript, he would have long hesitated before subjecting them to the ordeal of an enlightened community. But it is now too late for repentance; and the faith that his volumes contain some important historical particulars not generally known, conquering that natural timidity which ever haunts the threshold of first efforts, he submits them, with confidence and without reserve, to the generous candor of the public.

December 10, 1858.

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CHAPTER I.

PARENTAGE.

THE Sullivans were for many centuries a numerous and powerful sept settled in the southerly part of Ireland, and are now extensively multiplied on both sides of the Atlantic. In common with the other Milesian families, they traced their origin to a very early period of history. The preservation of their national annals, as also those of each particular sept, was made the especial duty of the bards and chieftains of the ancient Irish, from the organization of the government under the sons of Heber down to the times when the country was thrown into anarchy and confusion by the progress of English invasion. It is an interesting and well-authenticated fact, connected with the history of Ireland, that, under Queen Elizabeth, one measure adopted for its more perfect subjugation was an order to collect from the national and private repositories these records, that by gradually weakening, through their destruction, the spirit of clanship, the land might become an easier prey to the spoiler. This order was only partially obeyed; and in many of these ancient chronicles, or psalters as they were called, which have been preserved, frequent mention is made of the O'Sullivans and their chieftains. Many of the name gained glory by their exploits in the field, or were otherwise honorably remembered, and their race, to use the words of Sir William Betham,* a standard author-

* *Baronetage*, v., 556.

ity on such subjects, in point of antiquity and early pre-eminence, can vie with the most distinguished in Europe.

For many centuries prior to 1170, when the English first arrived in hostile array upon its shores, Ireland had been as highly civilized as any part of Western Europe; and its schools and colleges, in the days of Charlemagne and for a long time afterwards, were the resort of priest and noble from England and from many of the continental nations. During this period, and down to a comparatively recent era, the O'Sullivans possessed extensive territories in the Province or Kingdom of Munster; and along the shores of the Bay of Bantry, the banks of the Kenmare, and up through the superb passes and defiles of the Lakes of Killarney, celebrated as among the most beautiful scenery in Europe,* their chieftains exercised an independent sovereignty. The mouldering ruins of the Castles of Ardea, Dunkerron, and Dunboy, still remain the mournful monuments of their former prosperity; while more enduring testimonials of their virtues, valor, and love of country, fill some of the brightest pages of their ancient annals. No one can read the history of the English conquest, slowly extending through so many centuries its steady and desolating progress, and contemplate without sensations of horror the ruthless barbarity that marked its bloody footprints, or without mingled emotions of admiration and sadness the gallant and long-protracted struggles of the people, and their final unhappy destiny. In their social system, which was rather patriarchal than feudal, and better suited to promote the welfare of an agricultural community beyond the reach of foreign war, than one placed so near a powerful and warlike nation like the English, there were inherent defects which rendered impracticable any combined resistance to foreign aggression. Could they have been united, and loyal to one common sentiment of nationality, Ireland eventually,

* See Macaulay, *History of England*, vol. III., p. 128.

from her inferior power and resources, might have become a dependency of Great Britain; but the properties and liberties of its people would have been respected, and they would have been spared that terrible destitution and servitude which have driven so many of them into exile.

The comparative power of the conquerors increased with each successive century; and the native races, alienated and divided by feuds and jealousies fostered by English policy, all industry being discouraged by the presence of hostile armies, fell off more and more from their earlier grade of civilization; while their enemies, absorbing their substance and gaining vigor from their decline, secured their conquests by keeping the remnant of the inhabitants in poverty and ignorance. If, under these discouragements, there was no progress in the arts of life, and little instruction among the people, this applied with less force to the more affluent; and their chieftains, educated on the continent, compared favorably in accomplishments and all the higher sentiments and graces of civilization with any similar class in Europe. Surrounded at home by the vicissitudes of deadly warfare, the uncertainties of life increased their sensibility to religious influences, and they were as devoted to their church as tenacious of their national independence. The English rule, long confined to what was called the pale, the country immediately surrounding the capital, gained gradually in its sweep over the island, until it extended to the sea. The contest assumed the character of civil war, and those reduced to submission were retained in subjection by confiscations and proscriptions. Often, that a better pretext might be found for stripping them of their inheritance, the native chieftains were instigated, by their rapacious and wily adversaries, to acts of resistance. Religious persecution, an admirable invention of the spirit of evil, came in ready aid to accomplish the same objects; and thus the soil in time became vested in the Saxon and Protestant.

Remote from the English pale, and their country protected by its natural defences, the O'Sullivans for numerous generations retained their territory unmolested. In the fifteenth century, indeed, for a short period it fell into the possession of the stranger; but, recovered by force of arms, remained for the most part in their quiet, undisturbed enjoyment down to the latter days of Queen Elizabeth. During the long-protracted struggle of Ireland for nearly five hundred years for national existence, they were ever among the most stanch and self-sacrificing of its defenders. Other families were their superiors in wealth, and in the number of their adherents, and perhaps more frequently mentioned with distinguished encomium; but few were more efficient in service, or less selfish in their patriotic devotion to their country.

A long succession of O'Sullivans, hereditary princes of Beare and Bantry, whose names are recorded in the genealogical works of Ireland, and mentioned honorably in its annals, were for centuries independent chieftains of the southerly portions of Munster. Their rule extended over hundreds of square miles of territory, and was recognized by thousands of attached adherents and followers. Bordering on the sea, and deeply-recessed bays which indent the south-westerly shore of the island, like their Iberian progenitors they were much devoted to maritime adventure, and had constant intercourse with France and Spain. The English forces made occasional forays into the province, but only in the seventeenth century reduced it to complete subjection; and this after the destruction of a large portion of its inhabitants, and by reducing it to a desolate wilderness. Before the middle of the sixteenth century the princes of Beare acknowledged no allegiance to the English monarchs; and in 1531 the commander of an English vessel, who had ventured to capture a Spanish fishing-smack in the Bay of Bantry, was hung by order of the chieftain.

In the earlier years of Queen Elizabeth, Daniel, head of the sept, dying, leaving as his heir a son in infancy, his brother Sir Owen, the next in succession of full age competent to rule according to the Brehon law, succeeded as Tanist. Sir Owen, in 1570, recognized the supremacy of the English crown, and, surrendering the territories to the Queen, received back a grant of them by patent. When his nephew, Daniel, came of age, he was acknowledged chief of the sept; and upon his petition, in 1593, to be reinstated in his rightful inheritance, it was decreed by the Queen's deputy that Sir Owen should surrender to Daniel the Castle of Beare, its haven and demesnes; deliver up to his younger brother, Sir Philip, the Castle of Ardea and the lands adjacent; retaining for himself the Castle of Bantry and its dependencies. This was agreeable to the then existing policy. The native princes, weakened by this subdivision of their territories, and by the jealousy naturally engendered by the infraction of rules of tenure so long established, were rendered too feeble and too much divided among themselves to be formidable to the government. Many, provoked into hostility, were driven into exile, while others were allured by grant of titles, or intimidated by fear of confiscation, into submission.

Zealously attached to their ancient faith, and with no respect for the new opinions, the nobles of the south of Ireland, when they perceived it to be the determination of Elizabeth to eradicate Romanism, formed, in 1588, for mutual protection, what was designated the Catholic League of Munster. They were soon involved in a war, which was waged with various fortune for fifteen years. After the defection of McCarthy More, Daniel O'Sullivan, Lord of Bearehaven, at the head of the confederacy, was left to bear the chief weight of English resentment. His clan rallied with their accustomed loyalty to his banners, and for a time he maintained, with some promise of success, a hopeless struggle with overpowering numbers. The

long and gallant defence of his Castle of Dunboy, by a garrison of one hundred and forty-nine men against five thousand English armed with artillery, is one of the most heroic on record. Left to cope with forces superior in number, arms and discipline, he led his remaining followers through a country filled with the enemy, and, transporting them in boats, made of the skins of their horses, across the Shannon into Connaught, gained the advantage in several engagements by skill and bravery. Disappointed in the hope of finding sufficient force in Connaught to continue the contest with any chance of success, alone exempted from pardon, with Ellen, his wife, daughter of Owen O'Sullivan More, seventh Lord of Dunkerran, he went into Spain, where his son, for eminent services, was created Count of Bearehaven.

Several legends and ballads are still familiar to the people of Munster, founded on incidents in the romantic career of Daniel O'Sullivan Beare. One, it may possibly be interesting to mention, illustrating the devotion of a faithful adherent left in charge of the wife and child of his chief while they were in concealment among the mountains of Beare. Watching daily the movements of a large eagle procuring fish for its young from the neighboring waters, this faithful guardian climbed to its mountain nest, and brought down what was needed for the sustenance of the objects confided to his care.

Philip, a near kinsman of Daniel, who went also into Spain, wrote, among other works, an interesting history of Ireland in Latin; and others of the family have occupied distinguished positions in the Irish brigades in the French service, and in the modern history of Europe.

After the fifteen years' war under Elizabeth, from 1588 to 1602, the family of Beare and Bantry were deprived of a large portion of their territories, and, by successive confiscations under the Stuarts, that of Dunkerran became impoverished. In the year 1652, in the days of Cromwell, Daniel O'Sullivan More and his son John were slain in the

defence of their Castle of Dromanagh against the English forces, and by the end of that century both branches of the sept, the O'Sullivans More and the O'Sullivans Beare, who generally sided with the Catholics against the Prince of Orange, were divested of their remaining possessions.

By this reference to well-established facts in the history of Ireland we do not fear being charged with any disposition to keep alive painful memories, or to perpetuate the animosities of race. The sin and the shame of these ancient wrongs sleep with the centuries that are gone. Whatever principles of state policy, fortuitous or providential complication of causes, lent their aid in reducing Ireland to an English province, the course adopted was in accordance with the then generally admitted principles of conquest, and the same pursued by the vanquished, when themselves the invaders, towards their predecessors. Resentment is no longer rational, for, as respects the present, it has neither cause nor purpose. Just laws, and their well-regulated administration, have long since made Ireland an integral part of the British realm; and her people, now that for successive generations their blood has been mingled in marriage and shed to their common glory on innumerable battle-fields, have become one with the people of England. With the progress of enlightenment, character, industry and education, there, as elsewhere, are recognized as the essential forces controlling political power and social condition; and violence, though it may disturb the repose, can no longer affect the stability of its government. Here, in the New World, under the influences of education and more favorable opportunities of development, Celt and Saxon are gradually blending with the other elements of population, and distinctions of race rapidly merging in one general nationality.

John Sullivan, of Berwick, in Maine, father of General John Sullivan, of the Revolution, and of James, the subject of this memoir, was born in the city of Limerick, in Ireland,

in the early part of the year 1692. His father, Major Philip O'Sullivan, of Ardea, a lineal descendant in the fourth* generation from Daniel O'Sullivan Beare, was an officer in the Catholic army, and there is reason to believe one of those who, after the surrender of Limerick to William of Orange, preferring exile to submission to a government not of their choice, under the articles of the surrender, dated October, 1691, concluded to go with Sarsfield into France. Some months elapsed before vessels could be procured for their conveyance, and in this interval of delay John was born. Major Philip died soon afterwards, in France, of a wound received in a duel with a French officer. His widow, belonging to a wealthy and powerful family, which, through their chief, McCarthy More, had become reconciled to the government, resided in Ireland. The schools and colleges at home being closed to Catholics, her sons were, no doubt, educated on the continent, where there were several scholarships founded at different seminaries of learning, for the benefit of persons of the name.

After the death of William of Orange, the solemn covenants and conditions of the surrender of Limerick were violated by the Protestants without hesitation and without compunction. Irish Catholics, stripped of their remaining estates, or holding them at the mercy of their conquerors, their religious rites proscribed, the professions closed against them, were subjected to restraints, indignities, and the utmost ingenuity of persecution. Such was the condition of affairs in Ireland when young Sullivan, after the completion of his education, returned from the continent. Hopeless of change, and conscious of the futility of resentment, his early manhood glided away in sadness and humiliation.

The sister of Mrs. Sullivan had married Dermot, eldest son of Daniel O'Sullivan More, Lord of Dunkerran. The son of this marriage, educated also on the continent, con-

* See Appendix.

tinned loyal to the Stuarts, and is believed to have been the companion of Charles Edward, in 1745, at Culloden, and in his subsequent wanderings.* A tradition exists among the descendants of John of Berwick, that, while a young man residing at home with his mother, he was the friend and correspondent of this cousin; and that an interview between the relatives, on board a French vessel of war off the Irish coast, exciting the suspicion of the English authorities, John was obliged to leave Ireland.

But the reason for his leaving home, according to the more usual and best authenticated tradition which has been transmitted in his family, was the course his mother saw fit to adopt in opposing his union with a young lady, of beauty and accomplishment, but one of a family not equal to his own in respectability and wealth; and whom she, a proud and high-spirited woman upon whom he seems to have been dependent, considered no suitable match for her son. She warned him that, should he disregard her wishes in this particular, he should derive no further aid from her; and finally concluded by peremptorily forbidding the marriage. He desired her to take a week for reflection before confirming her resolution, and told her that, should she persist in her opposition to his union with the lady of his choice, he would leave home and go where she would never see or hear from him again. When the specified period had passed without her showing any disposition to relent, he carried his threat into execution, and became an exile from his home and his country. The strength of his

* This rests upon Master Sullivan's own family statement, to be found in the first Appendix. It is with him somewhat matter of conjecture. Colonel O'Sullivan joined the Prince soon after his arrival at Moidart; and was his quarter-master and adjutant-general, and military adviser before the Scotch leaders took exclusive control of his counsels. After the unfortunate battle of Culloden, he accompanied the Prince in his flight and concealment, and only left him, at his request, when the number of his followers rendered more precarious the Prince's chances of escape. This was shortly before the romantic adventure with Flora McDonald.

attachment to the object of his early love was never overcome, and when he was more than sixty years of age it is related that at the mention of her name he lost all control of his feelings. That his mother never actually heard of him after his departure, is abundantly proved by a letter from a relative in Ireland, written from Kerry, by a curious coincidence, on the same day that her son died at Berwick, and addressed to General Sullivan, whose revolutionary services had attracted attention to the existence of the father.

John Sullivan sailed from Limerick in 1723, and the vessel is believed to have been driven by stress of weather into York, in the District of Maine. On the voyage out his attention was attracted to a pretty child, then only nine years of age, named Margery Brown, who afterwards, when she had grown into womanhood, became his wife. Leaving home under circumstances to make him naturally careless of his future, he was obliged, upon his arrival in this country, to enter into an agreement with Mr. Nowell, the master of the vessel, to earn the money for his passage. Unaccustomed to labor, and finding the life irksome, he applied to Dr. Moody, of York, a clergyman celebrated for his benevolence, whose acquaintance he had made soon after his arrival, by a letter written, in order to prove his qualifications, in several, tradition says seven, different languages, soliciting his assistance in procuring more congenial employment. This application resulted in a loan sufficient in amount to cancel his obligations to Mr. Nowell, and enable him to open a school at Berwick. His young friend on the voyage, little Margery, probably indentured, as was usual among the poor in colonial days, he is said also to have redeemed from her indentures.

Under what circumstances Margery came to America is not known. Her parents may have died on the passage, or may have been too poor to provide for her when they arrived in this country. It is difficult to account other-

wise for her redemption by Mr. Sullivan. He appears to have adopted her and brought her up as his own child. When she had reached the period of maidenhood she is said to have been unusually attractive; and one day, while drawing water at the well, a young man, better clad than the generality of the neighbors, came by, and engaged her in conversation. Fascinated by her charms, he on the spot proposed marriage, and doubtless, as she had been instructed in the event of such a contingency, she referred him to her father. The lover stated his case to Mr. Sullivan; but when, upon consulting Margery, it was ascertained that no such impression had been made upon her heart as would warrant consent to the proposal, Mr. Sullivan bade the over-eager suitor good-day, and, displeased with so much fervor without encouragement, with a gentle intimation that the further prosecution of his unwelcome addresses would be resented. These particulars were related not long since to the writer and a great-grandson of General Sullivan, by an aged lady, in her parlor at Berwick. In that same apartment, some sixty years before, she had received them from the lips of Master Sullivan himself, in the presence of his wife. The ancient couple had been to a funeral, and, making her a visit on their return, were detained there by a heavy shower.

Enlightened by this incident as to the nature of his own sentiments towards Margery, and discovering that he had himself already gained her affections, he made her, soon after, his wife. The disparity of age, for she was some twenty years younger than her husband, did not lessen their happiness; indeed, her greater dependence upon his superior experience served only to increase their mutual attachment. Although she did not at all times take kindly to his efforts to inspire her with a taste for knowledge, she was bright and sensible, and proved doubtless a better help-mate in the wilderness than if more highly educated. He was occasionally provoked by her violent ebullitions of

temper, but she seems to have yielded ready obedience to his authority whenever he saw fit to exert it. Like all men possessed by any secret subject of sorrowful reflection, he shrunk from contention, and probably lived in his own recollections a life quite apart from his daily duties and employments, sharing but few of his deeper feelings even with his wife, who, from her own very different experiences in early days, could have had little power of understanding them.

They were married, to judge from the ages of their children, about 1735; and, soon after, he purchased seventy-seven acres of land in Berwick, bounded north-westerly by Salmon Falls River, where he resided during more than sixty years, up to the period of his death in 1796. The inducement to settle at Berwick being employment as a teacher, Mr. Sullivan zealously devoted himself to his duties, having at the same time two public schools, one for boys and one for girls, under his charge. These schools were open but a part of the year, and the instruction consisted of the ordinary branches necessary for the conduct of the common affairs of life. One of his pupils, Mr. Lord, recently deceased at the advanced age of ninety, and who for many years was his neighbor, spoke, shortly before his death, of his old master in terms of great respect and affection. He said that, if there were any disputes or misunderstandings among the neighbors, they were referred to Mr. Sullivan. He was called upon to draw all the wills, deeds, and other legal papers, needed in the simple rural community about him, and was their confidant and counsellor in all cases of trouble and difficulty. Mr. Lord described him as a tall, slender, but athletic man, six feet in height, with dark hair, black eyes, and florid complexion, very erect, of fine figure, and well proportioned. One still living speaks of him as a marked man in his personal appearance, of great natural abilities and mental cultivation. He was more fond of his books than of farm labor, and left his

studies with great reluctance, at the solicitation of his wife, to attend to his stock or his harvest.

In 1765, when already past the usual limit of existence, he made a lease of his farm to his son John, on condition that John should educate his brothers for professional life, and provide for Mrs. Sullivan, should she survive her husband. But he lived on, in the full possession of his faculties and of his physical strength to a remarkable degree, till he had reached his hundred and fifth year. He had been always sufficiently familiar with Latin to read and speak it fluently ; and, when over eighty, wishing to renew his acquaintance with French, "he sent to his son, General Sullivan, at Durham, for a grammar, dictionary, and other books in that language, and four months after wrote him a letter in French, containing ingenious commentaries on the authors he had read." Dr. Eliot says that he spoke and wrote both French and Latin fluently when over a hundred. At this advanced period of life he planted an orchard, cut his own wood, and often drove his oxen to the blacksmith's, a mile distant from his home, yoking and unyoking them without assistance, and rode frequently on horseback to Durham, to dine with his son, General Sullivan, and back the same afternoon, the distance both ways being nearly thirty miles as the roads then were.

He was very temperate in his habits, never drinking ardent spirits. Honorable, friendly, and generally beloved, he passed on the quiet tenor of his way, and probably would have been soon forgotten, save by his descendants, had not the prominent part taken by his sons, in achieving the independence of the country, brought him into notice. As the instructor of many successive generations of his neighbors in the useful mysteries of reading, writing, and arithmetic, he acquired much influence over them as they grew into manhood. His means were, of course, extremely limited ; but those about him were occupied in busy labor, and less importance was attached to differences of condi-

tion, and more, perhaps, to character, than in the present days of affluence.

His wife had come when a child to America. She had great natural strength of mind and energy of character, but living in seclusion, she was quite uncultivated, and her ways and manners those of the frontier settlement. Her peculiarities of temper are still remembered; but all speak with respect of her devotion to her family, and constant acts of kindness to her neighbors. If they were ill, she watched by their bedsides; and if in sorrow, was ever ready with kind words of consolation. "She was somewhat below the middle height, remarkable in her younger days for beauty and vanity; at all periods of her life for her talents and energy; and, if tradition speak true, also for the violence of her temper." While her husband was engaged with his schools she superintended the farm as well as the household; and in all her various duties was excellent as a wife and a mother. Her sons, very probably, inherited largely from her the ambition and industry that made them useful and distinguished.

From his not attending the religious services of the neighborhood, it has been conjectured Master Sullivan kept steadfast to the faith of his childhood. A lady, who visited him within a few years of his death, says she found him reading his Bible. There was, upon the table at which he was seated, a copy of Hervey's Meditations among the Tombs. He recommended it to her perusal, and engaged her in a conversation, interesting and instructive, which left a very vivid impression on the mind of his visitor. His hair at that period was of silvery whiteness, parted on his forehead, worn long and flowing over his shoulders; and, as she described him, attired in the long robe of dark flannel, which the aged were then accustomed to wear in such remote places, with a small, close-fitting cap or band on his head, with his appearance of high health, and that peculiar beauty which sometimes makes old age so attrac-

tive, the impression made by his good sense and cultivation was much enhanced by his outward appearance. It is a subject of regret that no portrait was taken of him at this period. Major Thomas Brattle, an intimate friend of Governor Sullivan, sent him, about the year 1800, an oil painting, called the Man of Ross, which was said to bear much resemblance to John of Berwick at an earlier period of life.

John Sullivan lived long enough to see his sons John and James distinguished by the grateful respect of their countrymen, and the country itself prosperous and happy under its new government. His son, General Sullivan, died in January, 1795, at Durham, and he, fifteen months later, ended his long life at Berwick, in May, 1796, having reached his hundred and fifth year. He was buried, according to the custom of that part of the country, on the farm where he had so long resided. His widow died in 1801, at the age of eighty-seven, and was buried by the side of her husband. Their son James erected over their remains a tablet to their memory; and, about 1850, Governor Wells, and others of their descendants, enclosed the spot with an iron fence.

There is much which strongly appeals to the admiration and sympathy of his descendants in the character and career of this venerable patriarch of his family in the New World. Arriving penniless on that then wild shore, without kindred, or any one to love but the pretty child whose pleasant ways had beguiled the sadness of his weary voyage into exile; with indolent habits, and unskilled to labor, yet courageously grappling with the necessities of his condition, and earning his own passage-money, and then that of his future wife, whom, as she bloomed into womanhood, he thus made more particularly his own; redeeming his farm from the forest, with his rifle ever at hand, and his ear on the quick to catch among the mysterious voices of the solitary woods the stealthy footfall

or the savage warwhoop of the wily and merciless foe ; teaching the rudiments to successive generations of the little community around him, who grew up to give him his recompense in their honor and love ; instructing his sons out of the stores of his own mind and memory, for he could have had but few books in the wilderness, in the principles of right and wisdom which were to guide them through the perilous conflict, and render them of such distinguished service to their native land,—one of them a leader in the first overt act of the Revolution, and all instrumental in requiting to England the wrongs inflicted on his ancient home beyond the sea,—not that he was vindictive, but that his sense of justice was satisfied ; of scanty means, and toiling hard for subsistence, yet living on cheerful and contented ; just and reasonable enough in his own dealings to be the chosen umpire of his neighborhood ; ever sagacious in counsel, judicious and sympathetic in consolation, and generous to aid ; his long life extending over a century, and into the dawn of a new nation, with its fair promise of renown in story ; this ancient man, with his tall, slender frame, and fine old features, reading his Bible in his lonely dwelling, is an interesting example of the ancient fathers of New England, whose memories are the most precious heir-looms possessed by their descendants.

CHAPTER II.

YOUTH AND PROFESSIONAL STUDIES.

JAMES, the fourth son of Master Sullivan, was born on the farm at Berwick on the twenty-second of April, A. D. 1744. The cellar of the house occupied by his parents is easily distinguished by some portions of its walls still remaining in a field near Salmon Falls River, and within half a mile of the Great Falls village. The barn, which served to store away their harvests for the long winters of our New England climate, has only quite recently been destroyed by fire. Near by, but separated from the site of the old dwelling by a public road, laid out in comparatively modern times across the farm, is the ancient cemetery, where Master Sullivan and Margery his wife, when their long-protracted lives were over, were laid to their last repose, amid the scenes of their humble labors, and of the pleasures and various vicissitudes of more than half a century.

Few country places in New England possess greater variety of agreeable rural scenery than old Berwick; and the narrow, rocky defile, through which rushes the impetuous stream constituting its western boundary, and here separating the States of Maine and New Hampshire, has long been celebrated for its wild and picturesque beauty. Within a limit of four miles the Salmon Falls River, called by the Indians the Quampegan, wearing its way through walls of granite, which rise on either side in precipices or steep slopes clothed with vegetation, descends in rapid

or cataract more than two hundred feet, before, making its last plunge at the village of South Berwick, it moves on, but with more quiet flow, towards the ocean. The vigorous rush of its waters has been long since brought into subjection by human power and contrivance, and applied to the purposes of utility; but a century ago, when the subject of our narrative wandered yet a lad about its shores, the stream poured through the dark primeval forest, undisturbed except by an occasional saw-mill, which, to his youthful taste, lent but another charm to the scene.

Berwick was then a frontier settlement; and not long before, one of its inhabitants, speaking of his dwelling, says there was no other house occupied by any white man between his own and Canada. The population, however, was gradually increasing, and the exasperation of the Indian tribes, as they marked the steady encroachment of the stranger on their hunting-grounds and most favored fisheries, was often manifested in stealthy attacks on some unguarded settlement, and by midnight massacre. Occasional retaliation served but to deepen further the spirit of resentment, and the annals of the period abound in revolting details of savage barbarity. Many a hearth was rendered desolate by the mysterious disappearance of child or parent, carried away by Indian war-parties to their distant villages. The inventive cruelty of our New England races quite equalled that recorded of any other people, and the captive rarely survived the agonies they took pleasure in inflicting amidst the brutalities of their fiendish festivals.

The Ossipees and other tribes, making their homes among the lakes and mountains of New Hampshire, had at times visited with hostile purpose the settlement at Berwick; and, for the better protection of the inhabitants from these incursions, numerous block-houses were erected at suitable places, to which they might retreat upon alarm. Master Sullivan and his sons were occasionally called upon to take

part in their defence; and James, in his History of Maine, makes mention of having been himself in garrison at Gerish's fort, west of Salmon Falls Brook. All the houses in the place were built of hewn logs sufficiently thick to resist musket-balls. The people went armed to the place of public worship, and watch was constantly kept from the steeple, three musket-shots fired in quick succession being the concerted signal of approaching danger. The inhabitants were generally engaged in agricultural pursuits; and the procurement of food, fuel and raiment, and security for themselves and their stock from the stealthy inroads of the savages and beasts of the forest, were the chief objects of their care and employment. Besides their military duties,—and the people, having been well represented in the attack on Louisburg and in the French war, were partial to warlike exercises,—they found ample occupation for their leisure in the sports of hunting and fishing, the woods swarming with moose and deer, and the streams with trout and salmon. The scenes and circumstances of early life have much to do with the development of character; and this slight sketch of the place where were passed his boyhood, and indeed the greater part of his first twenty years, will not be considered inappropriate in connection with our subject.

Belonging to a family which had been for many centuries engaged in military service, and this hereditary taste probably having the greater influence upon him from the stirring incidents of the wars so long waged during the middle of the last century between the French and English for supremacy on the American continent, Master Sullivan had secured for his eldest son, Benjamin, a post in the navy, and originally intended James for the career of a soldier.

These views entertained for the welfare of his children were not destined, however, to be realized altogether in accordance with his expectations; but he had every reason to be satisfied with their subsequent career. The vessel,

indeed, to which Benjamin was attached, was lost at sea, before the Revolution, and all on board perished. But John, as one of the principal leaders of the American struggle for independence, will, in future times, there is reason to believe, be more highly estimated for his character and services, than heretofore by writers of its history. Daniel and Eben, his other sons, in a lower sphere of action gained distinction by their bravery, and were useful officers. James alone, for reasons shortly to be mentioned, was shut out from military employments; but, as will be seen in the sequel, he displayed in trying emergencies much ability and high military aptitudes.

With this plan for his future, James Sullivan pursued his studies under his father's direction. What constituted the family library, no means remain for ascertaining; but few books could have been accessible in a place so secluded. His education was, doubtless, more thorough in the branches attempted, than varied in character. As he grew older, the duties of the farm and the forest, and the constant watchfulness in which all participated to guard against the predatory forays of the Indians, afforded full occupation for his thoughts, and the best of discipline for his intellectual and physical faculties. His father was rather averse to labor in aught else but his literary pursuits; but Mrs. Sullivan was a woman of restless energy and strong good sense, and too ambitious for the welfare of her children to suffer her sons to be idle.

Few luxuries, or even what was indispensable to comfortable subsistence, could be procured without much toil, and, indeed, all were ever willingly at work. In the intervals of study, when his services were not required in farm-labor at home, James employed himself in boating on the Piscataqua, a broad river or arm of the sea, with the tide ebbing and flowing, and into which emptied Lamprey, Oyster Bay, and Salmon Falls Rivers. Lumber and other produce from the interior were floated down its tide to Ports-

mouth, in gondolas, long flat-bottomed boats, which could not, without both strength and much good management, be safely steered amidst its shoals and dangerous eddies. James soon became an accomplished boatman; and this life of hardship and exposure developed his muscles, and invigorated his character.

Two circumstances, at this period, exerting an important influence over James' future life, have been somewhat variously related. One warm day in summer, wearied with work, he had been sleeping on the grass, when, suddenly aroused, he beheld a large rattlesnake, coiled, erecting its head over him. Horror at the awful fate that impended, one familiar to our settlers in those days in the wilderness, gave a powerful shock to his system, and he fainted. The swoon probably saved his life; since, according to popular belief, the rattlesnake never strikes the sleeping, or those seemingly lifeless. He was ever after this subject to attacks of epilepsy, sometimes lasting for several hours, occurring often when on his circuits, and occasionally in court.

The other incident alluded to was the complicated fracture of one of his limbs while felling a small tree. His foot, while pressed upon a branch to secure better play for his axe, accidentally slipping, the bent tree sprang into place. James was thrown down, and his leg, caught in the cleft, was badly broken. The usual version of the story adds that, while thus prostrate, he cut his limb free with his axe, and, dragging himself along the ground to the stone-drag, contrived to work his way on to it, and drive the oxen home, the distance of a mile, to his father's house. This accident led to a long illness, and the consequence was lameness for life.

For two years he remained confined to the rural home-stand. His medical attendant, of little experience or knowledge, managed to splinter the broken limb so unskillfully, that the cure, at last very imperfect, was greatly pro-

tracted. This confinement was not without its advantages ; for, to beguile the tedious hours, his active mind became thoroughly acquainted with all the books he could procure. He devoted himself with great assiduity to the study of the Latin language, committing much of its grammar to memory, and reading with care the principal classics. This subsequently proved of essential benefit to him in his professional studies and literary labors. There was little to divert him from his pursuits. His elder brothers, as has ever been the case in New England, upon approaching manhood had quitted home to seek their fortunes elsewhere. Eben was a lad full of mischievous devices, and Mary, the only sister, was but a year older than Eben. One condition of the lease, already referred to, of the farm at Berwick, was that, as soon as James should be able to walk or ride, his brother John should take him home, "find him in food, washing, lodging and apparel, and instruct him in the art and science of the law." When qualified to take his oaths of admission to the bar, John was, furthermore, to supply him with the necessary books of forms and pleadings. The same instrument further stipulated that John should take charge also of Eben, and, when sufficiently advanced, provide for his education as a physician.

It is not intended to embrace in this memoir of James Sullivan the numerous interesting anecdotes of his elder brother, the revolutionary General, which, unrecorded in print, still float about New Hampshire. But, where the leading events of John's career have a direct bearing on the fortunes of James, some brief mention will be indispensable. Persevering in his sports, energetic in labor, ambitious and untiring in his studies, John had displayed from early youth much vigor of character. In a spirit of adventure he took, when a lad, to the sea ; and, returning at the age of seventeen, determined, in all probability at the suggestion of his father, to devote himself to the law. There were but few lawyers then in the province, and

these were looked upon as a superior order of society. It indicated much confidence in his power to command success, for a young man, without influential friends or collegiate advantages, to think of entering the lists. Still, he was not discouraged, and presented himself before Mr. Livermore, an eminent counsellor of Portsmouth, modestly preferring his request that he might be received as a student in his office, promising, as some return for the privilege, his services when required in labor on the farm or garden. Pleased with the good sense and appearance of his young visitor, Mr. Livermore yielded a ready assent to his proposal.

Improving every means for gaining knowledge and experience, John rapidly progressed; and his master, appreciating his talents, generously lent his aid to their development. On one occasion the lawyer was away from home when a client called for him to assume the defence, before a neighboring justice, of a cause which involved character and feeling, if no great amount of money. Disappointed at his absence, the client entreated John to undertake the case, who, as any delay would be fatal, consented with some reluctance.

At nightfall, Mr. Livermore returned home, and, learning how his pupil was employed, led by some curiosity to know how he would acquit himself, went to the trial. Wrapped in his cloak, and with his hat lowered over his face for concealment, he quietly observed, through an open door, the proceedings from an apartment adjoining the court-room. Great was his surprise. His student managed his witnesses with a shrewdness and good judgment that would have done honor to the most experienced practitioner; and, when his turn came to address the court, exhibited information, eloquence, and argumentative powers, auspicious not merely of future success, but distinction. Livermore did not choose to interrupt the joys of this first forensic victory; but the next morning expressed his

gratification in no measured terms, assuring John that he should consider him thereafter as one of his own family, and gladly embrace every opportunity to find him employment and advance him in his profession.

Fired by this early triumph, and encouraged by this friendly sympathy, John Sullivan prosecuted his studies with renewed ardor. At the age of twenty he felt warranted to marry; and soon became widely known in New Hampshire as equal in talents and eloquence to any lawyer of its bar. He was endowed by nature with many requisites for professional superiority. According to his biographer, his person, though not tall, was well-proportioned and commanding. His complexion was dark, with a ruddy glow of health; his features handsome, with an expression dignified and full of animation. His eye was black and penetrating, his voice deep but melodious, and both promptly responsive alike to stern and gentle emotions. Reasoning faculties of a high order, perceptions rapid and distinct, and a ready imagination, with his warmth of temperament and quick sensibility, eminently qualified him for a popular orator. John Adams speaks at a later day of his fluency and wit when a member of the Continental Congress. Easily provoked, he was as easily appeased; and if his frankness and unreserve made him a few inveterate enemies, his general amiability of disposition and readiness to oblige secured him numerous friends, who were faithful throughout life. Lavish and open-handed by nature, the habits of country life admitted no expense, and his fees prudently invested made him rich. The friend of Governor Wentworth, who then held his court with some state at Portsmouth, the correspondent of Hutchinson, John Sullivan always took the liberal side in politics, and, by his able pen, and persuasive oratory, wherever men congregated to discuss affairs of state, did his best to induce resistance to parliamentary encroachments. Such was the teacher and guide of James Sullivan during those early

years when his professional and political character was forming; when the heart is as wax to receive generous impressions, adamant to preserve them in their purity and strength.

About the period James entered his office as a student, John had removed from Newmarket to Durham, and, towards the close of the year 1764, purchased the handsome mansion erected by Dr. Samuel Adams, an eminent physician of the place, then recently deceased; and this continued to be his residence during the remainder of his life. The house still remains in good condition, and at the date of its erection must have been a more costly dwelling than was then usually to be found in country villages. The farm is beautifully situated, extending some distance along the shore of Oyster River, and in one corner of it, according to a custom then very general in that part of the country, upon an eminence of gentle elevation, commanding a most agreeable rural prospect, is a small private burial-place. Here, with his own family and those of his sister Mrs. Hardy and of his friend William Odiorne, all attached and intimate while living, General Sullivan was buried.

At the time of John's first settlement at Durham, a town rich in fertile farms, its inhabitants were devoted to the peaceable pursuits of rural life, and there prevailed among them a strong prejudice against lawyers. It was believed that they were a class not wanted in the community; that they fomented litigation for their own purposes, and craftily devoured the substance of their neighbors. Resolved, if possible, to secure their village from the presence of all such promoters of discord, some energetic young men gave the newly-settled counsellor notice to quit Durham, threatening personal coercion if this peremptory order were not speedily obeyed. Nothing daunted by this open and decided show of hostility, John Sullivan informed them that he should not think of it; and, if they cared to

resort to force, they would always find him ready. The people of the town became greatly excited, and took different sides in the quarrel; collisions occurred between the parties, and, in the progress of the dispute, one of the assailants was severely though not dangerously wounded by an over-zealous adherent of Mr. Sullivan. The affair already wore a serious aspect, when a truce was called, and it was finally determined to settle the question by a personal conflict with any combatant the assailants should select. Their chosen champion not being considered a fair match for the elder brother, who possessed great physical strength, James, at his own request, was substituted to do battle for the law. The encounter took place at the time appointed, and James came off the victor. The people, acquiescing in the result of this ordeal, ever after placed the greatest confidence in John Sullivan; and he soon became, and continued through life, their most beloved and popular citizen.

James applied himself, under his brother's guidance, with great zeal to the study of the law. If, from the limited advantages he had enjoyed at Berwick, his early education had been in some respects defective, his intellectual faculties had been well developed by the careful training of his father. He was endowed by nature with great vigor of mind, quickness of intelligence, and the power of steady application; and, with much to stimulate his ambition, and little to divert his attention in the circumstances around him, he made rapid progress.

The elementary course, from which the student of that period was compelled to procure his professional knowledge, was little more than Wood's Institutes and Coke on Littleton. Blackstone's Commentaries, dating a new era in legal learning, were published in London in 1765, but were not in general use on this side of the Atlantic until some years later. The limited number of books to be read was not unattended with advantage; for,

with the powers concentrated on fewer subjects and authors, the mind of the student more easily possessed itself of what then constituted the whole science of the law. As both the elementary works and reports of cases in the colonies were from the old country, where the social condition, laws and usages, materially differed from those existing here, more thought was requisite in ascertaining distinctly the established principles from the precedents, and adjusting their application to questions arising in American practice. The mind of our student was admirably suited for his task. It was logical and philosophic; and he possessed that calm yet earnest intellectual disposition peculiarly adapted to grapple and fully comprehend the subtleties of his profession. His brother was already, fortunately for him, engaged in extensive practice; and this, whether in the simple disputes before the village tribunals, or in cases of greater magnitude before the county courts, was a better school for discipline than any reading however extensive or profound.

The period of his professional studies was likewise that of the Stamp Act excitement; and the gazettes of Boston and Portsmouth brought to the people of the interior full information of the state of feeling in the larger towns on the seaboard. The general discussion everywhere of the great principles of government, of our civil rights and obligations, was now preparing the public mind for the subsequent struggle. It can be easily imagined that these important lessons were not thrown away upon a young man of generous and ardent aspirations, possessing an hereditary detestation of arbitrary power, transmitted in his veins from progenitors who for centuries had battled against it in Ireland.

While at Durham he was a frequent visitor at the house of William Odiorne, which stood, and still remains, near that of General Sullivan. Mr. Odiorne, a ship-builder, and also a commissioner, under the royal government, for the

preservation of the forests in New Hampshire, was the son of Jotham Odiorne, born in 1675, and who died in 1748, one of the Judges of the Superior Court of the colony. Mrs. William Odiorne was Avis, daughter of Dr. Hugh Adams,* a celebrated and very eccentric clergyman, long settled at Durham over the Oyster Bay Parish, and a brother of Matthew Adams, the early friend of Dr. Franklin. In the New Hampshire Historical Collections may be found many amusing particulars of Dr. Hugh Adams, who possessed great wit and learning, but often provoked the animadversions of his brother clergymen, as also of some of the graver and more simple members of his parish, by an independence of opinion which occasionally somewhat scandalized their orthodoxy. He continued his pastoral charge of the parish at Durham from the year 1718 to 1739, and died there in 1750, at the age of seventy-four. He was a graduate of Harvard, of the class of 1697.

The family of Mr. Odiorne was numerous, and consisted in part of daughters just on the verge of womanhood. One of them, named Hetty, was peculiarly pleasing in the eyes of James Sullivan. He wooed and won, and soon became her accepted lover; although, from prudential considerations, their marriage was deferred for a year or two, until his success at the bar should justify their union. Born June 26, 1748, she was four years younger than her betrothed.

* It is recorded, and may be interesting to some of her numerous descendants to know, that the maiden name of the wife of Dr. Hugh Adams was Susanna Winborn.

CHAPTER III.

PROVINCIAL CONGRESS.

WHEN Sullivan's regular course of legal studies was completed, and the oaths required by existing forms had been duly administered for his admission to the bar, some suitable place was to be selected, offering a reasonable promise of professional employment.

The province of Massachusetts, of comparatively limited dimensions within its own borders, although by its charter bounding west on the Pacific, included at this period within its territory the District of Maine. Excepting, however, a few scattered settlements fringing its shore, the district was still an unbroken wilderness of wood from the ocean to that imaginary range of highlands later to be definitely established as its northern boundary. At the mouth of the Kennebec, Arrowsick Island and a small tract of land on the main then constituted what was called Georgetown. The place is memorable as the seat of the earliest colony in New England — Bonham and Raleigh Gilbert, with their party, having passed there the winter of 1606-7. But the ravages of disease and the death of their leader discouraging those who survived the rigors of the climate, it was soon abandoned. In the first volume of the Collections of the Massachusetts Historical Society is an interesting account of the early history of Georgetown, contributed by James Sullivan, then their president.

This spot, selected for the commencement of his life as

a lawyer, was sufficiently unpromising. It was wild and desolate, and with but few inhabitants. When, at a later period, some brother in the law inquired, "What on earth could have induced you to settle in such an out of the way place?" he answered, with characteristic quickness, that, wishing to break into the world somewhere, he had concluded to assail it at its weakest point.

Not far above, on the bank of the river in Dresden, then Pownalborough, is still standing an ancient building, long since used for other purposes, which was then the courthouse for the County of Lincoln. It had been erected some years earlier by the Plymouth Company, the proprietors of a vast region on the Kennebec, at the suggestion and under the supervision of their energetic president, Dr. Sylvester Gardiner, an eminent physician of Boston. The structure is still in a good state of preservation, and is of a higher order than public buildings usually are in a new and scantily peopled country. Here Sullivan is said to have argued his first case, and James Otis, John Adams, the Quincys and Sewalls, often eloquently pleaded the causes of their clients.

He did not, however, long reside at Georgetown. His early success in procuring practice gave him sufficient assurance of his future to warrant his marriage. On the twenty-second day of February, 1768, when in his twenty-fourth year, he was united, at Durham, to Miss Hetty Odiorne, then nineteen, by the Reverend John Adams, nephew of Dr. Hugh Adams, already mentioned as the bride's grandfather.

Biddeford, on the Saco, now busy with the hum of manufacturing industry, was then growing in business and importance; and here, purchasing a small one-story house, containing only two rooms, the youthful couple commenced housekeeping on a scale sufficiently moderate. A few years later, when professional employment had increased his substance, this house was replaced by a large and

handsome two-story edifice, which is still standing, and well known to the antiquarians of Biddeford. His law-office stood near the dwelling, in one corner of the garden.

No regular attorney had previously settled on the Saco. The litigated business had been wholly managed by lawyers from the capital and larger towns of the province, who were in the habit of riding the circuits of the courts, quite as much to obtain practice as to attend to that already in their charge. Applying himself with great assiduity to the business of his profession, and in its many intervals engaged industriously in the various occupations of rural life, he became known, and secured the respect of his neighbors. Blest with a happy temperament, and with manners and temper peculiarly genial, respect soon ripened into sentiments of personal regard, and he became a general favorite. "His accommodating disposition," says a cotemporary resident of the town, "made him much beloved. Necessity in early life had brought him acquainted with labor of almost every kind. The axe, the saw, the shovel and the plough, he handled equally with any one, and superior to most men, and with such willing resolution that none went before him. He would fell a tree equal to any, and lift as much."

The town of Limerick, in which he had a share, was settled in 1772, and the proprietors honored him with the selection of its name. His father having been born in the city of Limerick, in Ireland, this circumstance decided his choice. "In 1774, in consequence of the general opposition throughout the colonies to the measures of the mother country, litigation had ceased, the courts were suspended, and his condition with most men would have been gloomy in the extreme. Not so with him however. He took his axe, week's provision, and, in his blanket frock and trousers, went to Limerick with the other settlers, most of whom were from Saco, and commenced felling trees, to reduce his lands to a state of cultivation for the support of him-

self and his family. On Saturday he returned, the distance of thirty miles, as black and cheerful as the natives when they return from a successful hunt."

He was far removed from any great city, and had started with no adventitious advantages; but his patience of labor, and superior abilities, soon made him widely known in the surrounding country. His successful arguments on the circuits secured him extensive employment, and he rose rapidly into distinction. He was advanced to the rank of barrister, and appointed King's Counsel for the County of York; and, before he had attained the age of thirty, was among the most respected and influential men in the District of Maine.

His professional employments called him frequently from home. On one of his excursions he was so fortunate as to hear the celebrated preacher Whitefield, who died at Newburyport in 1770. He was much impressed with his eloquence, and wonderful power over the crowds who gathered everywhere to hear him. On this particular occasion, Whitefield, before commencing his discourse, looked down for some moments over his pulpit-cushion at the multitude assembled beneath, and then broke out, in a tone well suited to produce a profound consternation, with the words several times repeated, and each more emphatic than the last, "You don't know yourselves!" and before he had concluded his sermon it was manifest, from their rapt attention, tears and ejaculations, that he had succeeded in convincing them that they were much greater sinners than they thought.

As the courts of the district were attended by lawyers from other parts of the province, he had abundant opportunity of forming their acquaintance, and securing the friendship of many among the most eminent. His brother John, with Livermore and Parker, of New Hampshire, were also frequently present. Of those from Massachusetts, Daniel Farnham, John Lowell, Jonathan Sewall, James

Otis, and John Adams, are recorded as annually riding the eastern circuit. The latter mentions in his Diary, under the date of July, 1770, a visit made to the house of Mr. Sullivan. He was in company with Farnham, Winthrop, and David Sewall; the latter afterwards an associate with Sullivan on the supreme bench. Farnham and Sewall started somewhat earlier than their companions, that they might order dinner at Allen's Tavern, at the Biddeford Bridge; and towards noon Adams and Winthrop joined them at the dwelling of James Sullivan. After refreshing themselves with punch, then the usual beverage, they all adjourned to the tavern to dine; and, when they had finished their repast, Sullivan proposed to the party a visit to an ancient crone in the neighborhood, who, from her great age and accurate memory of things long past, was one of the wonders of that part of the country. She was one hundred and fifteen years of age, having been born in 1655, near Derry, in Ireland. She remembered events in the reign of Charles the Second, having lived under seven English monarchs. She told her visitors she was glad to see them, for she hoped they would pray for her. She had had faith that her prayers would be answered; but she had long earnestly prayed, without avail, to be released from the earth.*

* In a letter to his wife, dated York, 29th June, 1774, Mr. Adams makes further mention of both John and James Sullivan:

"There is very little business here, and David Sewall, David Wyer, John Sullivan and James Sullivan, and Theophilus Bradbury, are the lawyers who attend the inferior courts, and, consequently, conduct the causes at the superior.

"I find that the country is the situation to make estates by the law. John Sullivan, who is placed at Durham, in New Hampshire, is younger, both in years and practice, than I am. He began with nothing, but is now said to be worth ten thousand pounds, lawful money; his brother James allows five or six, or perhaps seven, thousand pounds, consisting in houses and lands, notes and mortgages. He has a fine stream of water, with an excellent corn-mill, saw-mill, fulling-mill, scythe-mill, and others, in all, six mills, which are both his delight and his profit. As he has earned cash in his business at the bar, he has taken opportunities to purchase farms of his neighbors, who wanted to

A year later Mr. Adams was again at Biddeford, at the sitting of the court, and, the tavern being full, says that on Saturday evening Jonathan Sewall and John Lowell went to stay at James Sullivan's, where, it seems reasonable to presume, they passed the Sabbath. Sullivan continued on intimate terms with Lowell for the rest of his life. Six years later, when Lowell came to the General Court, at Watertown, with what was called the Newburyport memorial, Sullivan was appointed on the committee to receive him. They were joint commissioners for settling the New York controversy, and were associated also in various other ways.

At this period there were but five lawyers, besides Sullivan, in the District of Maine: William Cushing, of Pownalborough, and David Sewall, of York, both of whom were subsequently his companions on the bench; Caleb Emery, of Kittery, and Theophilus Bradbury and David Wyer, of Falmouth. "The latter was a high-minded, sterling fellow, of strong talents, an able and eloquent advocate, and

sell and move out further into the woods, at an advantageous rate, and in this way has been growing rich. Under the smiles and auspices of Governor Wentworth, he has been promoted in the civil and military way, so that he is treated with great respect in this neighborhood.

"James Sullivan, brother of the other, who studied law under him, without any academical education (and John was in the same case), is fixed at Saco, alias Biddeford, in our province. He began with neither learning, books, estate, nor anything but his head and hands, and is now a very popular lawyer, and growing rich very fast, purchasing great farms, and is a justice of the peace and a member of the General Court."

A few days later he says: "I dined with Mr. Collector Francis Waldo, Esq., in company with Mr. Winthrop, the two Quincys, and the two Sullivans, all very social and cheerful — full of politics. S. Quincy's tongue ran as fast as anybody's. He was clear in it that the House of Commons had no right to take money out of our pockets more than any foreign state; repeated large paragraphs from a publication of Mr. Burke's in 1766, and large paragraphs from Junius Americanus." As Junius and Americanus were frequent signatures affixed by Mr. Sullivan to his contributions to the press for the rest of his life, this conversation may not have been without some influence over their selection.

extremely independent in his opinions and character. He was full of wit and vivacity, and added much to the enjoyment of professional intercourse. Unfortunately he took the wrong side in the Revolution, and became a refugee."

If justice were not administered with as exact conformity to rule and precedent as now, more form and ceremonial were thought indispensable to maintain the majesty of the law. The judges of the Supreme Court at this period, though not, of course, all on the bench together, were Oliver, Trowbridge, Foster, Hutchinson, Ropes, Cushing, and Browne. As from time out of mind customary in the mother country, they appeared in court in judicial dress. This in summer, and on less formal occasions, consisted of a black silk gown, with white bands, and a silk bag for the hair. During the winter, and in capital cases, the judges wore scarlet robes, with facings and collars of black velvet, and cuffs to the wide sleeves of the same material.* There seems reason to believe that the lawyers, when they had attained the rank of barrister, also attended in gowns. The court opened with the discharge of cannon from the fort, and a prayer as at present, and the first day of the term the judges, bar and ministers, dined in company.

Professional habits were decidedly convivial, and gentlemen thrown together for several weeks, often under the same roof, were quite disposed to be amused. The manners of the judges were not only decorous but dignified, and the members of the bar were courteous and well-bred; but in their familiar intercourse there was little formality or restraint, and their festivities were seasons of wit and frolic, and often sufficiently uproarious. When the business of the term was nearly completed it was customary for both bench and bar to assemble at the tavern for a social meeting. On these occasions they constituted a court

* In a portrait of Judge Sullivan, taken a few years later, he is presented in crimson robes, and in what seems a wig, with his hands resting on the third volume of Burrows.

among themselves, appointing one of their number chief justice, for the trial of all breaches of good fellowship during the term.

Judge Sewall describes one of these meetings at Biddeford, when the inferior court was sitting at Ladd's Tavern, there being no court-house in the place. John Lowell had arrived, late on Monday evening, to attend its sessions, and, finding the inn full, sought lodgings elsewhere, probably at his friend Sullivan's, where he was always a welcome guest. He left his horse tied to the post at the inn door, expecting it would be properly cared for; but the landlord never gave it a thought. When, on Friday evening, a court was held for the hearing of all omissions and commissions which had occurred during the week, Ladd was called upon to answer for leaving the horse unattended to, and defended himself on the plea that he had received no orders to put him up. The case was tried with becoming gravity, and the judge, upon the evidence, sentenced Ladd to pay a single bowl of good punch for his neglect, and Lowell twice as much for not taking better care of his own steed. Both John and James Sullivan were social, and had a keen relish for enjoyment, and no doubt contributed, *within* the limits of becoming mirth, their full share to the general entertainment. This association with the most cultivated men of the province, when refinement and courtesy were made essential elements of education, had no doubt its due effect upon men brought up, as they had been, in comparative seclusion.

Upon the approach of the revolutionary struggle, great unanimity prevailed both in Pepperellborough and Biddeford, adjacent towns only separated by the river, and, indeed, throughout the colony, on the subject of the differences with the mother country. A distinguishing feature of New England life, and one which greatly contributed to the power of resisting authority as it grew despotic, was the excellent town organization everywhere prevailing. For

all purposes within their control these towns were small republics, and in their meetings, which, comprising all the male inhabitants of age, were not so numerous as to prevent perfect freedom of discussion, every man had his vote and right to be heard. Sensible and intelligent, and too busily occupied with their own concerns to indulge in factious dispute, when any subject of general interest came home to their sympathies they were all united, and prompt to act with vigor and efficiency for the common cause. Indignation at the claim of Great Britain to govern the colonies through a Parliament in which they were not represented, spread rapidly throughout the villages and towns of the interior; and their committees of safety, an organization which had been everywhere adopted, at the suggestion of Samuel Adams, corresponding with each other, and with that for the province in the metropolis, responded faithfully and fearlessly to every measure of resistance advised by their patriot leaders. This town organization was then, as now, the basis of our democratic system, and must be an important one everywhere for the development of free institutions.

The relation of counsel and client, more particularly in country villages, is very sure to create mutual friendship and confidence; and, where the legal adviser is by nature generous and social, there is no limit to the influence he may exercise over those who employ him. All the professions contributed their share in making America an independent nation, but none more efficiently than the law. Compared with the long roll of the profession at the present day, there were then few lawyers in practice. "Of these," says Mrs. Warren, not quite accurately, in mentioning Sullivan, in her *History of the Revolution*, "James Otis, Josiah Quincy, Francis Dana, John Adams, Joseph Hawley, and Judge Paine, were all, besides James Sullivan, who, in 1774, embraced the popular side." It has been frequently remarked, and with great justice, that the

patriot lawyers deserved distinguished praise for their disinterestedness ; with everything to expect, if loyal to the government, from its patronage, and with every hazard, if they were not, of being selected as the victims of its vengeance, should the popular movement be crushed by the superior force of Great Britain. No such considerations had any influence with Mr. Sullivan, or with many others, the noblest patriots history has to honor, and he did not hesitate to pledge life, and all chances of professional and political preferment, in the service of his country.

He was among the most active and early in Maine to commit himself unequivocally in open opposition to the aggressions of Parliament. His patriotic views, ably and eloquently expressed in the town-meetings, and wherever the people gathered to deliberate upon the troubled state of the province, materially assisted in promoting harmony and concert of action throughout the neighborhood. His efforts were untiring to secure a zealous support of the war, from its germination in protests and resolutions of remonstrance, till the country was plunged, beyond return, into hostilities. "His clergyman, Dr. Morrill, with whom he had been, from his settlement at Biddeford, intimately associated, was a man of superior endowments and cultivation as a scholar, a divine, and a statesman. From his amiable character and generous sentiments, he possessed unbounded influence over his parishioners, and was of incalculable service in sustaining the spirits of the people. To his long residence there, and the confidence reposed in his wisdom, it was in a great measure owing that the principles of independence were so early discussed, and so generally embraced. A remarkably close and friendly intercourse subsisted between him and Mr. Sullivan ; and their united exertions bore down all opposition."

James Sullivan was sent, in the spring of 1774, to the General Court, as the representative of Biddeford. On the first of June the Boston Port Bill went into operation.

This tyrannical act, plainly manifesting a settled policy to crush the spirit and destroy the liberties of America, cast a profound gloom over the province, and at the same time aroused in all classes a general and determined spirit of resistance.

The court convened at Salem. Upon the committee appointed on the state of the province, to which was usually confided the charge of directing the action of the house, there were four members whom there was reason to distrust. In order, therefore, that the friends of liberty might be able to arrange some plan of proceeding, without fear of being betrayed, Samuel Adams and James Warren, leaders of the patriots, selected from the house a few chosen spirits, upon whom they could depend, to take counsel together as to the proper measures to be pursued. They met at night in secret conference. One of those most earnest and zealous in advocating and promoting the measure of a general congress for the continent, to meet the following September, at Philadelphia, was James Sullivan. By the third evening the plan was matured, the delegates selected, the funds provided, and letters prepared to the other colonies, requesting coöperation. Their report to the house was accepted with closed doors, Samuel Adams having put the key in his pocket, while the messenger of Governor Gage, who had received some intimation of what was going on from one of the suspected committee-men, was reading outside, on the staircase, the proclamation dissolving the court.

Carrying home to Biddeford the solemn league and covenant of non-intercourse agreed upon in Boston, Mr. Sullivan found his constituents prepared to embrace to the fullest extent the measures recommended. At a town-meeting, on the thirtieth of July, spirited resolutions, doubtlessly prepared by himself, were adopted, expressing the temper of the times, and showing that no sacrifices, how-

ever great, could discourage the inhabitants from taking their part in the unequal struggle.

Governor Gage on the first of September issued his precept for the General Court again to meet at Salem on the fifth of October. Finding the spirit of resistance not confined to the metropolis, but pervading the country, before the opening of the chamber he concluded it best to postpone it indefinitely ; and, on the twenty-eighth day of September, only two days before the time appointed for the meeting, made his proclamation accordingly. The delegates, however, many of whom, from the distance of their homes, had no knowledge of the proclamation, and others, in the belief that such a step was but another proof of an intention to substitute an arbitrary government in the place of the representative system guaranteed by the charter, came together. They waited a day for the governor to make his appearance, which he did not see fit to do. They then resolved themselves into a Provincial Congress, choosing John Hancock for their president, and Benjamin Lincoln, afterwards distinguished at Saratoga, and as the general-in-chief of the Southern Department, as their clerk. During their first session, which lasted to the tenth of December, they sat at Salem, Concord, and Cambridge. The second Congress convened at Cambridge, on the first of February, 1775, and sat there and at Watertown to the twenty-ninth of May ; and the third, at the latter place from the thirty-first of May to its dissolution on the nineteenth of July. After this period the representative body, by the advice of the Continental Congress, was chosen and organized under the province charter of 1692, that the claim might be kept good, whatever the issue of the contest, to the rights and liberties conceded under that ancient instrument.

Of the many volumes printed in later days, by order of the commonwealth, few possess more claims to public attention than the journal of the Provincial Congress. It

was carefully prepared in 1838, under the supervision of William Lincoln, from the original files, or what remained of them. The Congress consisted of between two and three hundred delegates, the most respectable men for character and ability in the province. It numbered among its members many who, by generous devotion to their country in its hour of peril, and efficient services, earned imperishable renown, in the subsequent contest, as statesmen or military leaders. Samuel and John Adams, the Warrens, General Ward, General Heath, and General Lincoln, Colonel Prescott, Major Hawley, and Judge Paine, were among the names to remain forever familiar to coming generations. John Hancock, its first president, was soon called to preside over the general Congress at Philadelphia. Joseph Warren, who succeeded him, purchased by his death at Charlestown immortal glory; and James Warren, who followed, by his genuine patriotism, widely extended influence, and sagacious counsels, occupied a leading position in the great drama, of which his wife, the sister of James Otis, was one of the earliest historians.

Upon the Congress devolved the responsibility of directing the energies of their countrymen, wrought up to the highest pitch of indignant resentment by the injustice of the king and commons of Great Britain, their natural protectors. The lives and liberties, the future welfare of their country, depended upon their vigilance, upon the prudence and wisdom of their counsels. It was alike their duty to moderate the excessive ardor of the impetuous, who would have precipitated the conflict, and to stimulate and encourage the over-timid and cautious, who naturally shrunk from the inevitable consequences of unsuccessful rebellion. During the first year of the war its operations were confined to the neighborhood of Boston; and the resistance to the British troops at Lexington, and the midnight march to the heights of Charlestown, which led to the first great battle of the Revolution on Bunker's Hill,

were under the sanction of the Congress and its Committee of Safety. The pages of its journal, as indeed also that of the committee, glow with the noblest sentiments of patriotism, and evince an elevation of character, an intellectual ability and training, equal to the importance of the occasion. It is not easy to identify the authorship of the numerous reports, resolutions, and other eloquent papers, that fill its records with "thoughts that breathe, and words that burn." Indeed, many of them were the joint productions of two or more members of the respective committees appointed to prepare them. But they will remain, as long as republican institutions shall be valued, as proof alike of the good sense and wisdom, — of the generosity, self-sacrifice, and stanch heroism, — of the men of Massachusetts.

Mr. Sullivan was constantly, and always when his duties to his clients permitted, in attendance on the Congress. The frequent recurrence of his name, often in several instances on the same day, affords some clue to the part which he took in its deliberations. No report has come down to us of its debates. It seems reasonable to infer, from the great number of those committees on which he was appointed, — of many of which, and especially where legal papers or reports were to be drafted, he was the chairman, — that he must have taken a prominent part in its discussions, and possessed great influence over its members.

During the first Congress he was appointed, in November, on a committee to express the thanks of Congress to the other colonies for their generous donations to Boston in her distress, from the interruption of her trade consequent on the acts of the British Parliament, and also to solicit from the other towns in the province further contributions for her suffering inhabitants and those of Charlestown. In December he was selected, with others, to prepare an address to the clergy, urging them to influence their peo-

ple to zealous effort for the cause; and his name will be found on many other committees equally important.

A few days after the dissolution of the first Congress, on the tenth of December, 1774, occurred the first overt act of hostility of the Revolution, in the seizure of Fort William and Mary, in Portsmouth harbor. Parties were organized at Portsmouth and Durham, at the suggestion and under the lead of John Sullivan, then lately returned from the Continental Congress at Philadelphia, aided by John Langdon, of Portsmouth, the future brother-in-law of James, both of whom were afterwards chief magistrates of New Hampshire. His brother, Eben Sullivan, took part in the affair; and very possibly, as he was then on his journey homewards, James might have been also present. They carried off a hundred barrels of powder, which, concealed under the pulpit of the Durham meeting-house, close by the residence of General Sullivan, and in a building on his farm, were taken by him to the army at Cambridge, in May, on his return to the Congress, and used in the battle of Bunker's Hill.

On the twenty-second of December James Sullivan was moderator of the town-meeting at Biddeford, and chosen on the Committee of Safety and Inspection, and empowered to correspond with the neighboring towns. He was also chosen a committee to purchase powder, lead and flints, for the trainbands. In the following March it was ordered that the militia of the district should be divided into four squadrons, to exercise half a day once in each week, for three months, under a teacher of the military art, to be paid out of the district treasury. From his lameness, James Sullivan could not, with his brothers, three of whom were engaged in the revolutionary campaigns, take much part in the military resistance of the country; but from the outset he fearlessly braved the pains and penalties of treason, in arousing and directing, by his persuasions and counsel, the martial energies of his fellow-citizens.

The second Congress convened on Wednesday, the first of February, at the meeting-house in Cambridge, and sat there to the sixteenth, when it adjourned to meet at Concord on Tuesday, the twenty-second of March. It is worthy of note that, though the season was unusually cold, there was no fire in the building where they met, and a resolve was passed authorizing the members to wear their hats. On the fourth of February Mr. Sullivan was added to the committee to publish in a pamphlet the doings of the late Congress, and to prepare an address to the inhabitants. This was twice committed, and Warren and Church added to polish and prune. They corrected, and may have altered, but did not redraft; and, as it is believed to have been substantially Sullivan's, it is here introduced as presenting a view of the temper of the times. •

“FRIENDS AND FELLOW-SUFFERERS: When a people, entitled to that freedom which your ancestors have nobly preserved as the richest inheritance of their children, are invaded by the hand of oppression, and trampled on by the merciless feet of tyranny, resistance is so far from being criminal that it becomes the Christian and social duty of each individual.

“While you see the lives of your fellow-men, in other nations, sported with and destroyed, and their estates confiscated by their prince, only to gratify the caprice, ambition, or avarice, of a tyrant, you ought to entertain and cultivate in your minds the highest gratitude to the Supreme Being for his having placed you under such a form of government as, when duly administered, gives the meanest peasant the same security in his life and property as his sovereign has in his crown.

“This constitution of government secures to each one subject thereto such an entire property in his inheritance and the fruit of his industry, that they cannot be taken from him without his personal or representative consent; and, as the evidence of entire property arises from the

uncontrollable power of disposing, when your estates shall be brought into such a situation, or under such a form of government, as that they can be disposed of or granted by persons who are by no means accountable to you therefor, you cease to have anything more than a licensed and precarious property in them.

“Notwithstanding these principles have been warmly contended for, and nobly defended, at the expense of much blood and treasure, by your British ancestors, who have ever been seriously alarmed at the least infringement on this branch of their happy privileges, the House of Commons there, over whom you have not the least control, and in whose election you have no voice, have claimed and exercised the power of granting your money without your consent; and what renders the same more aggravated is, that the money extorted from you is applied to the vile purpose of maintaining a set of men, who, through depravity of mind and cruelty of disposition, have been, and still are, endeavoring to enforce certain acts of Parliament, made with express purpose to take from you your charter-rights, and reduce you to a state of misery equal to that ever attendant on those whose prince has the sole disposal of their lives and properties.

“Fleets, troops, and every implement of war, are sent into the province, with apparent design to wrest from you that freedom which it is your duty, even at the risk of your lives, to hand inviolate to posterity.

“These strides of tyranny have fixed the united attention of all America; and, being greatly and justly alarmed, the wisdom of the whole continent has been collected in that Congress whose salutary resolutions have pointed you to effectual means of redress, and the execution of the plan projected by that honorable assembly has been warmly recommended to you by your former Provincial Congress.

“The transactions of your former Congress, with regard

to placing the militia on such a footing as may serve to defend you from each act of hostility that may be offered, have been carefully transmitted to you, and we rejoice to hear that you have cheerfully paid the strictest attention to them, and ardently wish that the same martial spirit, which so remarkably prevails among you, may be encouraged and increased.

"Though we deprecate a rupture with the mother state, yet we must still urge you to every preparation for your necessary defence; for, unless you exhibit to your enemies such a firmness as shall convince them that you are worthy of that freedom your ancestors fled here to enjoy, you have nothing to expect but the vilest and most abject slavery.

"The foregoing sheets contain the resolutions of your former Congress respecting the improvement of your public moneys at this critical juncture of your public affairs. Such is the alarming state of the province that the necessity of punctually complying with these resolves can, by no means, need any further argument to stimulate thereto than what naturally arises from facts under your constant observation; but, as necessary preparations for your defence require immediate supplies of money, duty and faithfulness to you compel us to take leave to hint that, should you be so unhappy as to be driven to unsheathe the sword in defence of your lives and properties, the having proper magazines duly prepared may give that success which cannot be expected without them.

"Subjects generally pay obedience to the laws of the land to avoid the penalty that accrues on breach of them; and, on the same principles, we are assured that, as you hitherto have, you will continue still strictly to adhere to the resolutions of your several Congresses; for we can conceive of no greater punishment for the breach of human laws than the misery that must inevitably follow your disregarding the plans that have, by your authority, with that of the whole continent, been projected.

"Your conduct hitherto, under the severest trials, has been worthy of you as men and Christians, and, notwithstanding the pains that have been taken by your enemies to inculcate the doctrines of non-resistance and passive obedience, and, by every art, to delude and terrify you, the whole continent of America has, this day, cause to rejoice in your firmness. We trust you will still continue steadfast, and having regard to the dignity of your characters as freemen, and those generous sentiments resulting from your natural and political connections, you will never submit your necks to the galling yoke of despotism prepared for you; but, with a proper sense of your dependence on God, nobly defend those rights which Heaven gave, and no man ought to take from us."

On the sixth of February Sullivan was chairman of a committee, upon the petition of Sawyer, of Rowley, to raise a troop of horse; and, on the ninth, to authorize the Committee of Safety to take into their possession all warlike stores, the property of the province, and to report resolves for the expenses of the delegates to Philadelphia. On the tenth he was ordered to revise the commissions of the Committees of Safety and Supplies, and empower them to make necessary provisions for the defence of the province. On the thirteenth he was appointed to bring in a resolve for inquiring into the state of the militia, their numbers and equipments; and to recommend selectmen to make return of their ammunition and warlike stores.

The Congress assembled at Concord, according to adjournment, on the twenty-second of March. Sullivan does not appear to have been present before the battle of Lexington, on Wednesday, the nineteenth of April. Upon that event the Congress immediately adjourned, to meet at Watertown the Saturday following. He was there, and appointed chairman of a committee to procure from the selectmen liberty for the Congress to use the meeting-house; and, on another, to take depositions *in perpetuum*

of the transactions of the troops under General Gage, on their route to and from Concord, to be sent by the first ship to England. On the following day, which was Sunday, he was chosen on the Committee of Safety, and also appointed to wait on the New Hampshire Congress, to meet on the seventeenth of May, at Exeter, to request their coöperation. Resolves were passed for the protection of the eastern towns, in consequence of his efforts, and, on the twelfth of May, he was appointed to take into consideration the expediency of raising a company or two of Indians. A few days afterwards he reported the following letter to the eastern tribes :

“FRIENDS AND GOOD BROTHERS: We, the delegates of the Colony of the Massachusetts Bay, being come together in congress to consider what may be best for you and ourselves to do to get rid of the slavery designed to be brought upon us, have thought it our duty to write you the following letter :

“BROTHERS: The great wickedness of such as should be our friends, but are our enemies, we mean the ministry of Great Britain, has laid deep plots to take away our liberty and your liberty. They want to get all our money; make us pay it to them, when they never earned it; to make you and us their servants; and let us have nothing to eat, drink, or wear, but what they say we shall; and prevent us from having guns and powder to use, and kill our deer, and wolves, and other game, or to send to you for you to kill your game with, and to get skins and fur to trade with us for what you want; but we hope soon to be able to supply you with both guns and powder of our own making.

“We have petitioned to England for you and us, and told them plainly we want nothing but our own, and do not want to hurt them; but they will not hear us, and have sent over great ships, and their men, with guns, to make us give up, and kill us, and have killed some of our men; but

we have driven them back and beat them, and killed a great many of their men.

"The Englishmen of all the colonies, from Nova Scotia to Georgia, have firmly resolved to stand together and oppose them. Our liberty and your liberty is the same; we are brothers, and what is for our good is for your good; and we, by standing together, shall make those wicked men afraid, and overcome them, and all be free men. Captain Goldthwait has given up Fort Pownall into the hands of our enemies; we are angry at it, and we hear you are angry with him, and we do not wonder at it. We want to know what you, our good brothers, want from us of clothing, or warlike stores, and we will supply you as fast as we can. We will do all for you we can, and fight to save you, any time, and hope that none of your men, or the Indians in Canada, will join with our enemies. You may have a great deal of influence over them. Our good brothers, the Indians at Stockbridge, all join with us, and some of their men have enlisted as soldiers, and we have given them that enlisted, each one, a blanket and a ribbon, and they will be paid when they are from home in the service; and, if any of you are willing to enlist, we will do the same for you.

"BROTHERS: We beseech that God who lives above, and that does what is right here below, to be your friend and bless you, and to prevent the designs of those wicked men from hurting you or us."

On the twelfth he was added to the committee employed to revise the commissions of the Committees of Safety and Supplies, and also placed on that to present an application to the general Congress, at Philadelphia, to obtain their recommendation for the colony to take up and exercise civil government. On the seventeenth he was appointed, with Colonel Foster and Dr. Holton, to introduce to the house Colonel Easton, who had come with tidings of the taking of Ticonderoga. On the nineteenth he reported the commission of General Ward, as commander-in-chief

of the forces raised by the Congress for the defence of this and the other American colonies. Various other important matters were confided to his care, which it would occupy too much space to present in detail. There is good ground to believe that a large portion of the reports on these subjects were of his drafting; but it is not possible to authenticate them with sufficient accuracy, as the other members no doubt shared in their composition.

The third and last Provincial Congress assembled at the meeting-house at Watertown, on Wednesday, the thirty-first of May, and continued its session to the nineteenth of July. This period embraced the preparation for the first important armed resistance to parliamentary aggression at Bunker's Hill on the seventeenth of June, and the reorganization of the forces under General Washington and the continental generals, who arrived in camp early in July.

On the fifth of June James Sullivan was chairman of a committee to confer with the general officers of the American army upon the health of the soldiers; and of another, on the following day, to provide some means for the more regular distribution of the necessaries provided for them by the colony. On the seventh he is first named on a committee to wait on General Ward, to procure a return of the number of men in camp. He was appointed on the twelfth, with Major Hawley and Colonel Warren, to prepare instructions for delegates to repair to the fortress of Ticonderoga, to examine into the state of that fortress, and of affairs generally in that quarter; and, on the same day, was chosen, by ballot, with Walter Spooner, of Dartmouth, and Jedediah Foster, of Brookfield, commissioner for the expedition.

They were instructed to proceed to the posts of Ticonderoga and Crown Point by the road through the new settlements called the New Hampshire grants, and to judge of the feasibility of transporting provisions by said road

to the waters of Lake Champlain; and they were to inform themselves fully how Colonel Benedict Arnold, who had been appointed by the Congress to the command of the Massachusetts troops, had executed his instructions. They were also to give Arnold such directions as they should consider most conducive to the public service, for his further government, and, if in their judgment he were unfitted for his post, to discharge him, and select some other officer in his place. They were to provide for the organization of a force of four hundred men, in the pay of Massachusetts, to keep possession of the fortresses, and to arrange for necessary supplies of powder and provisions. They were, moreover, directed to make a careful survey of the ordnance stores, and report the same to Congress; and were generally empowered to use their discretion in doing whatever they judged necessary for the effectual security and maintenance of these important posts. They were to advise the general Congress, the Convention of New York, and the Governor of Connecticut, of the opinions they should form as to the further measures to be taken. Four hundred pounds were to be entrusted to their charge, to pay as an advance to the soldiers they should retain or enlist in the service of the colony. It may have been either out of consideration for his lameness, or that he was less able than the others, in consequence of his greater distance from home, to provide himself, that it was further resolved that Sullivan should use for his journey a horse which had been confiscated to the state, and was then at pasture in a neighboring field.

It had been early perceived how important would be the possession of the fortresses on the lakes to prevent the British penetrating into the western part of our settlements, and also for engaging the Canadians in support of the liberties for which the other colonies were contending. Soon after the battle of Lexington, Ethan Allen, with two hundred Green Mountain Boys, joined by Arnold, at Castle-

ton, had, on the tenth of May, gallantly captured Ticonderoga, summoning the garrison to surrender "in the name of the great Jehovah and the Continental Congress." On the same day, he obtained possession of Crown Point, and, not long after, the command of the whole lake. Many resolute men had joined his standard from the western counties of Massachusetts, and from Connecticut, under Easton and Brown, both of whom were also present at the surrender. Arnold, who had been appointed early in May by the Congress of Massachusetts to the command of their troops at Lake Champlain, was a brave and accomplished officer, but of violent passions, and unwilling to submit to the command of others. He assumed to himself the right to command the whole forces; but neither Easton nor Allen felt disposed to yield to his pretensions; and when the commissioners arrived at the lake, they found Colonel Hinman, of Connecticut, also there, with one thousand men stationed at different posts.

Arnold, having discovered the approach of the commissioners, but not aware of the nature of their powers, dispatched a force to waylay them in the woods, and to compel them to pay over to him the money with which they had been entrusted for the payment of the soldiers. This they refused; but, taking a strong position against a rock, presented their pistols, and, using other modes of persuasion, soon convinced their assailants that they were not to be intimidated or coerced into deviation from their instructions. Upon their arrival at the headquarters of Arnold, upon a small vessel at anchor on the lake, near St. Johns, he ordered them into custody, and detained them as prisoners in the cabin. Watching his opportunity, when Arnold was away, Sullivan sprang on deck, and, addressing the men, defended the propriety of their course with so much effect that the commissioners were set at liberty. When Arnold returned, and read the instructions of the Congress, and realized the extent of the powers

lodged with the commissioners, he was much disconcerted; and, on the twenty-fourth of June, gave in his resignation, and disbanded his troops. Some of the men, at his instigation, broke out into open mutiny, which the commissioners were enabled to quell, after some difficulty, by the aid of the other officers, and of Judge Duer, who chanced to be present. They remained several days at the lake, inspecting the fortresses, and organizing a force of four hundred men, whom they placed under the command of Colonel Hinman. They paid over the money according to the directions of the Congress, and appointed agents to supply the troops with provisions, and such military stores as could be procured in the neighborhood; providing also for reënforcements from Berkshire, to keep good the contingent at the number fixed by the Congress.

When prepared to return, Arnold, provoked at their exercise of an authority which had stripped him of his command and covered him with humiliation, contrived to have them set ashore on the west side of the lake, whence they were compelled to find their way, with great toil and difficulty, to Albany, through the wilderness. The exposure on this comfortless journey brought on Mr. Sullivan an attack of fever and ague, from which he long suffered. The circumstances implicating Arnold were represented, on their return, to the Committee of Safety, and to Washington. But it was thought, on consultation, that Arnold was too valuable an officer to disaffect, and no notice was taken of his misconduct. His military services must ever be mentioned with respect. But, though daring in enterprise and valiant in the field, Arnold possessed few other requisites for such a struggle as ours. He was unprincipled and insubordinate, and the many evils which resulted from his misuse of authority were hardly compensated by his distinguished success. His expedition to Canada, and attack on Quebec, justly gained him glory; and the capture of Burgoyne's army is ascribed to his prowess. It was

probably fortunate that the former proved a failure ; since our field of operations was quite wide enough for our resources when concentrated upon objects more important. But Arnold, by his unjustified depredations at Montreal, so far disaffected the Canadians as to alienate them from the other colonies, and add them to the number of our enemies.

Our informant heard Sullivan narrate the particulars of the encounter with the soldiers, many years after their occurrence, at his own table, before a large party of gentlemen, among whom was his companion on the expedition, Walter Spooner. Spooner was a man of remarkably venerable appearance, and had been, at one period during the war, president of the Council. In relating the attack upon them in the woods, Sullivan directed the attention of the company to his ancient associate, and begged them to contemplate that grave and dignified presence, to recall what a rigid observer they had always found him of what was proper and decorous, and then realize, as they best could, that, during all this encounter, he was swearing like a trooper.

The letters of the committee to the Continental Congress, written at Ticonderoga on the twenty-third of June, and those to Governor Trumbull, of Connecticut, and to the Convention of New York, from Springfield, on the third of July, as also the report of their doings, dated at Cambridge, the sixth of July, the day of their return, are to be found in the Appendix to the Journal of the Provincial Congress.

On the day of their arrival at Cambridge, a vote of thanks for their services, prepared by Major Hawley, was passed by the Congress.

CHAPTER IV.

PROVINCIAL ASSEMBLY.

AFTER his return from Ticonderoga, the name of Mr. Sullivan appears but rarely on the journal of the Congress, which, indeed, was brought to a close two weeks later. He was placed occasionally on committees, but indisposition, induced by exposure on the lakes and in the journey home through the forests, soon compelled him to absent himself for the few remaining days of the session. He repaired to his home at Biddeford, and there remained until the latter part of September.

In accordance with the advice of the Continental Congress, at Philadelphia, the representative body was now reorganized, and met, on the nineteenth of July, as a Provincial Assembly, under the provisions of the charter of 1692. James Sullivan was returned as the delegate from Biddeford. In the absence of any governor duly appointed, whom they could reasonably be called upon to recognize, the Council was clothed, under the charter, with executive functions.

Towards the end of the summer his health was sufficiently recruited to admit of his taking his seat. He found, upon his return, the aspect of affairs in the neighborhood of Boston materially changed. The British troops in the occupation of the town had been strongly reinforced. Washington was in command of the American army, with its main body at Cambridge, and either wing on

the heights extending on the right into Roxbury, and on the left into Charlestown. Ward, Lee, and Putnam, commanded the different divisions, and under them were Greene and seven other brigadiers, appointed in June, at Philadelphia, on the continental establishment. Among these last was John Sullivan, who, after honorable service in the general Congress as delegate from New Hampshire, now, at the age of thirty-five, commanded a brigade, under Lee, at Winter Hill; Greene commanding the other in the same division. General Sullivan had long been familiar with military science, and could accurately describe all the great battles in history, these having been from childhood his favorite study. He had held, since 1772, a commission under the crown as major. But when the dispute with the government assumed the character of armed resistance, with other officers of his neighborhood, he burnt his commission on the green, which lay near by his own residence and the old meeting-house in Durham. Between him and James existed the greatest unanimity of feeling, and the closest relations of friendship; and this intimate connection of the two brothers, one of them standing high in the confidence of Washington, and the other very generally known and esteemed among the members of the General Court of the province, enlarged for both the sphere of their usefulness.

Immediately after his appearance in the house his legal knowledge and experience were put in requisition. His name is to be found on various committees, and especially whenever resolves were to be drafted, or legal questions were involved.

Among the matters entrusted to his charge was the case of Dr. Benjamin Church, a member of the house from Boston, and now surgeon-general in the army. Church had long been regarded as ardently devoted to the cause of liberty, and respected as one of the leading members of the house. He possessed much ability, and wrote well in prose and

verse. Convivial in his habits, fond of amusement and his ease, he was generally popular, being one of those smooth and oleaginous natures who, in a bad sense, would be all things to all men. He was alike the friend of Governor Gage and of Samuel Adams. The songs he wrote for the whigs he parodied for the tories. While he was making a parade of the blood with which he professed to have been spattered when engaged in urging on the American patriots at Lexington, his pockets were filled with the gold given him by Gage for betraying their secrets. Shortly before, he had been reproached with being too constant a guest at the tables of the British officers, and he excused himself on the plea that he kept their company to find out their plans.

He stood high in the confidence of the principal patriots, and, from the first a member of the Committee of Safety, was admitted to their most intimate counsels. It is related by Colonel Paul Revere, that, in the winter of 1774-5, he was one of thirty organized into a committee for the purpose of watching the British soldiers, and gaining early intelligence of their intended movements. When they met, each member swore on the Bible not to reveal any of their transactions but to Hancock, Adams, Warren, Church, and one or two more. Yet, as early as November, it was well known among them that they had been betrayed; and a friend, having connections with the tory party, warned Colonel Revere of this fact, and in proof mentioned the identical words that had been spoken among them the night before. They removed from the celebrated Green Dragon Tavern, situated in Hanover-street, where they had previously met; but still found all their arrangements and doings were communicated, as before, to the officers of the government. It was then a common opinion among the Americans that there was a traitor in the Provincial Congress, and that Gage, by this means, possessed himself of all their secrets.

In December, Church was detected in criminal correspondence, in cipher, with an English officer in Boston. The messenger he employed was an old woman, who, mistaking her instructions, delivered the letter to a stanch patriot, who transmitted it by General Greene to Washington. General Putnam, to whom she was brought, had the old lady slung on his horse behind him, and carried her to headquarters. Washington was much amused at the grotesque appearance of the gallant general, who had no care for appearances when he thought they interfered with his duty; but was also sadly grieved at this first instance of American treachery. He ordered Church to be imprisoned, and on the third of October to be tried before a court of inquiry composed of all the general officers. The members of the court were severally interrogated, and each expressed in turn an opinion of the prisoner's guilt. As he was a member of the Assembly, it was concluded to leave the further investigation of the affair, and the disposal of the criminal, should he be found guilty, to their judgment.

Mr. Sullivan was charged, with others, with the preliminary arrangements for his trial, and, with Major Bliss, appointed by the Assembly to wait on General Washington, and request him to communicate the cause of the detention and imprisonment of Dr. Church, one of its members. It was decided that the culprit should be brought to the bar of the house. He was examined on the twenty-seventh of October. The intercepted letter, which had been deciphered by Dr. West, of Dartmouth, was deemed evidence sufficient of his criminal conduct; and his ingenious and earnest, but crafty, attempt at justification only deepened the impression against him. He had been on friendly terms with many members of the court; his earlier and more flagrant acts of treachery had not then transpired; and in the belief that he was a leaky vessel, erring rather from weakness than deliberation, and that, known, he was no longer dangerous, his punishment

was sufficiently moderate. He was expelled from the house, and kept for a time in confinement, but soon released, joined the enemy at Newport, and thence went to some part of the West Indies.

On the sixteenth of October Mr. Sullivan was appointed, with others, to make suitable provision and entertainment for a delegation from the general Congress, consisting of Dr. Franklin, Thomas Lynch, of South Carolina, and Colonel Harrison, of Virginia, together with Governor Trumbull, of Connecticut, Governor Cooke, of Rhode Island, Meshech Weare, president of the New Hampshire Congress, and also for the council, speaker, and such gentlemen visitors as they should see fit to invite.

The commissioners from Congress were to confer with General Washington, and with the local governments of the New England colonies, on the most effectual method of continuing, supporting and regulating, a continental army. They arrived at Cambridge on the eighteenth of October, and remained till the twenty-fourth. As part of their plan they adopted enlistments for the term of a single year. In that stage of the contest many were ready to engage for that brief period, whose duties to their families and other obligations would have dissuaded them from taking part, had the enlistment been for several years, or for the war.

During the summer an expedition had been fitted out at Georgetown to take possession of the vessels and military stores at Falmouth, now Portland. They succeeded in capturing Captain Mowatt, the commander of a sloop-of-war under Admiral Greaves, who chanced to be in the town; but, the British ships in the port threatening to fire on the place, upon the interference of the principal citizens, Mowatt was set at liberty. Irritated at the indignities to which he had been subjected during his detention, and at the opposition manifested later by the inhabitants to a proposed supply of spars and other materials for the

fleet, under the sanction of the admiral, on the sixteenth of October, he bombarded and destroyed Falmouth. When the intelligence reached Watertown Mr. Sullivan was busily engaged in the house. Alarmed for the safety of his family at Biddeford,—a village too near the sea to be secure from similar outrage, which, indeed, was threatened by Mowatt to every town on the coast eastward of Boston,—he hastened to their protection.

He found the people in Biddeford and along the river in the greatest state of alarm and perturbation. They were hourly expecting an attack by the British, attended with like horrors to those inflicted upon Falmouth. This was sufficiently terrifying; and, in the midst of the gloomy anxieties, occurred an incident which, to excited imaginations, seemed a fearful portent of approaching calamity. The Saco suddenly became swollen to twice its usual volume, and rolled down from the mountains with its waters, generally limpid, now red and disturbed, as if polluted by the crimson stains of carnage from the battle-field. A small stream among the White Hills, in consequence of the autumn freshets, had burst from its ancient channel, and, changing its course, poured into the Saco a current colored by the beds of iron which abound in that region.

The more sensible and judicious among them, well knowing employment to be the best remedy for panic, devised projects of defence to occupy their minds and bring into play all their energies. Sullivan, having had advantages in the camp for learning the science of fortification, came opportunely to their aid. He was generally known, and a favorite, and his counsels were readily followed. He not only directed their efforts, but worked himself diligently in throwing up the entrenchments. On the fourth of November, at a meeting of gentlemen from the several towns at the house of Colonel Tyng, in Falmouth, he was chosen commander-in-chief over the militia and the other companies in the pay of the province; and Colonel Mitch-

ell, Colonel Fogg, Deacon Titcomb, and Major Noyes, were appointed to assist him. Committees were raised to supply the soldiers and the people, and to collect balls.

His letters, written at this time to the Council, are characteristic, if not also historically valuable. They are too long for insertion. One, however, is introduced below, and others will be found in the sequel. They relate to the future defence of unhappy Falmouth, which, recently a flourishing town, full of comfortable dwellings, was now, not for any object of policy, but to glut the diabolical resentment of Mowatt, reduced to a heap of ashes. Partly by the aid of allowances to the sufferers from the court and private contributions, but principally through the elastic energies of its own people, the place was soon rebuilt and restored to its former consequence. It has since developed into the elegant and populous city of Portland. He writes from Biddeford on the second of November:

"The distressing circumstances and dangerous situation of the County of Cumberland, and the eastern part of the County of York, will, I hope, sufficiently apologize for my laying their condition before your honors.

"The metropolis of this eastern part of the colony is now in ashes, and the same fate seems pending over the whole territory. An armed vessel lies near where Falmouth lately stood, demanding free egress and regress on the land, and the surrender of all weapons of war, with apparent design of possessing themselves of that advantageous post, where they can securely lay, and, by degrees, subject and destroy the country round. No leader appears to whom the people pay the least regard. An army to defend us at the public expense would, I fear, defeat its very end; and no method can be suggested to save us but the organization of the militia, who, notwithstanding their recent and free choice of officers, are not under the least control. Nor do I conceive it possible to have a militia that may be depended on, while they have the elec-

tion of their officers ; for, such is the state of human nature, that people will not be obedient to power derived immediately from themselves ; and, as all power is, or ought to be, derived from the people, it would always be well to have a certain depositum, where it shall be lodged by the people, and from whence it may be taken by their officers. Where it should be lodged in this colony is obvious. However this may be, it is a melancholy and incontestable fact that there can be no attack to good purpose made on disciplined troops by our militia in their present disordered situation. Of this the battle of Lexington is a proof. I therefore humbly move your honors that, as you regard our lives, and wish not our utter destruction, you would immediately commission our militia on the old, if there is no new, establishment ; and would also beg leave to suggest the necessity and importance of appointing a general officer in each quarter of the province ; for, unless this is done, there can be no head, and the forces will be a multitude, and not an army."

Upon his return he was appointed by the house, with Mr. Elbridge Gerry, a committee to draft an act for fitting out armed vessels to protect the sea-coast, authorizing the issue of letters of marque and reprisal, and erecting courts for the condemnation of prizes. In the small lobby under, the belfry of the Watertown meeting-house, the building in which the Assembly held its sessions, Mr. Gerry drew the preamble, and Mr. Sullivan the body of the act. It passed on the eleventh of November ; and, as the first actual avowal by any deliberative body in America of intended offensive hostilities to be found in the annals of the Revolution, John Adams mentions it, under date of twelfth of April, 1810, to Mr. Gerry, as one of the most important documents in history.

Under its authority Captain Manly, of Marblehead, in a vessel called the Lee, captured, soon after, three valuable prizes, bound to Boston, freighted with cargoes for the use

of the British forces. One of them, sent in on the seventh of December to Cape Ann, was the brig *Nancy*, from Woolwich, laden with valuable military stores and ordnance, among which was found the celebrated mortar, *Congress*, mounted by Putnam at Cobble Hill, and used with much effect against the British, till it unfortunately burst in the month of February. Many other important prizes were taken. Our seafaring people along shore, who were mainly idle from the interruption of trade and of the fisheries, fitted out numberless cruisers, which, swarming over the neighboring waters, inflicted irreparable injury on the enemy. Constant success on this element, with which we were most familiar, kept the country zealous in the struggle, and provided our army engaged in the siege of Boston with supplies indispensable to its continued efficiency.

Three admiralty judges were appointed under this act, by the Council: Nathan Cushing for the southern, Timothy Pickering for the central, and Mr. Sullivan for the eastern district. In a letter, of December twenty-fifth, 1779, to Elbridge Gerry, then a member of the Continental Congress, Mr. Sullivan, at the time one of the judges of the Supreme Court, alludes to their coöperation, three years before, in framing this act at Watertown, and suggests the propriety of establishing courts of admiralty for the continent upon a plan and upon principles very similar to those now long since adopted in the organization of the admiralty jurisdiction of the federal courts.

It would be useless to enumerate all the various matters upon which he was placed in committee. On many of these he was called upon, as chairman, to make reports; on others, to prepare bills, resolves, letters to the Council, and instructions to different individuals in the civil or military service of the government. His activity, industry and promptness, and his cheerful alacrity to undergo fatigue, or meet responsibility, doubtless furnish an explanation of his continual employment whenever in attend-

ance. No member of the house appears to have been more constantly or arduously occupied; and his frequent nomination on committees entrusted with the preparation of important communications to the public for the expression of sentiment to induce increased ardor in the cause of liberty, or to influence opinion, prove the estimation entertained by the other members of his skill in composition. Experience shows that it has been, at all times, the custom of deliberative and legislative bodies to impose upon young lawyers a full share of the duties to be performed.

Among the important affairs thus devolved upon him were the drafting the laws for the regulation of the militia, for the commencement and prosecution of civil actions, for the confiscation of the estates of refugees and others inimical to their country. He was called upon to provide military stores, erect powder-mills, procure wood and hay for the army, correspond with various persons to encourage enlistments, and for other objects. He was the first named on a committee, with such as the Council should join, for the drafting of a proclamation, to be read at the opening of the several county sessions, for the purpose of inculcating a general obedience of the people to the several magistrates appointed under the government of this colony. This noble and eloquent exposition of the principles of the Revolution, and spirited appeal to the generous sentiments of his countrymen, reported on the nineteenth of January, 1776, was the composition of John Adams, then for a short time member of the Council.

In connection with the case of Dr. Church, on important questions concerning the army, and for other purposes, Mr. Sullivan had many official interviews with Washington at head-quarters, at the Cragie House in Cambridge, and also with his brother, General Sullivan, at Winter Hill. John Sullivan was not only diligent in the cultivation of the science of his profession as a soldier, but an ardent patriot;

as indefatigable in his country's service in the employment of his pen as in the discharge of his military duties. He had been occupied during the summer in forming entrenchments at Medford for the protection of the left wing of our army, our lines approaching more nearly to the enemy, then in the possession of Bunker's Hill and Charlestown Neck, at that point than at any other. He had been dispatched by Washington, in October, to the defence of Portsmouth, threatened by Mowatt, and, after his return, had been busily occupied in urgent appeals to the committees of safety at Exeter and Portsmouth, and to numerous friends, to hurry forward the contingents to the army. Amid the snows of a winter camp he found time for a long and able letter to Colonel Wentworth, dated on Winter Hill, the fifth of December, setting forth his views on the proposed reorganization of government in New Hampshire. It had much influence over the formation of the constitution adopted the following month in that colony, the earliest to establish a new frame of government. It contains many original suggestions; such, for instance, as a registered list of voters, now well approved by experience, and others showing a remarkable degree of political sagacity in a young man of thirty-five. Displaying the conscientious, patriotic and elevated motives that characterized our Revolution, it has especial claim to be remembered; and the wise and moderate views it presents come with peculiar force from a military leader, armed to establish the generous principles of political freedom upon the secure foundations of reason and justice.

The Assembly adjourned on the eleventh of November, to meet again on the twenty-ninth. On the second of December Charles Chauncey brought down from the Council the letter from Mr. Sullivan, giving an account of the works of defence in the town of Falmouth, and representing the necessity of further provision for the safety of that town, enclosing a copy of the proceedings of the conven-

tion in the County of Cumberland. Massachusetts having agreed to pay her soldiers by lunar, and the other colonies theirs by calendar months, this led to discontent. The following letter, dated the sixth, from James, at Watertown, to General Sullivan, on this subject, is not without interest:

"I this evening," he says, "received your letter by Major Scammell, and have just returned from an important conference with General Washington, on the subject-matter of it. As to our paying our troops to the first of August, by lunar months, it was our engagement with them when we enlisted them, and we can by no means go from it. But I believe we shall be content to make it a provincial charge, rather than have any disagreement with the other colonies.

"I grieve at the backwardness of our men to engage in the ensuing campaign. There will be nothing left undone that our court has it in its power to do to facilitate the raising a new army. I have been this evening drawing a plan to lay before the court in the morning. It is yet incorrect, but you have here a copy:

"The prevailing uneasiness in the army seems to arise more from a disposition in the soldiers to rule, and an opinion of their own consequence, than in any injustice in their pay or treatment. This, if long subsisting, will daily obtain greater control over their minds, and have the most probable tendency to break up the army, and, therefore, should be rooted out as soon as possible. But, as some of the persons who now command as subalterns were lately neighbors to and on a level with the privates they command, and as the soldiery in this country are by no means dependent on the army for a living, this must be done with the greatest delicacy.

"The payment of our soldiers by lunar months, or giving them a bounty, will so much enhance the expenses of the war, that the southern colonies, who bear a great part of the expense and share none of the profits of the campaign,

may prove discontented, and that union, which now so happily subsists, be destroyed. If this colony should pay the extraordinary expense of lunar months out of its own treasury, and should add a bounty, the troops of the New England colonies would, as they are in the same service, expect the same advantage, and leave the service unless they have it.

“If all the New England governments should bid a bounty, or pay the extraordinary charge of lunar months out of their own treasuries, the soldiers, by gaining this demand, would soon make another; and, from this condescension of government, have such evidence of their own importance as would induce them to suppose that all their demands must be immediately complied with.

“If, therefore, some measure can be hit upon to convince the soldiers now in the camp that an army can be raised without them, they will readily enlist for the ensuing campaign.

“The colony of the Massachusetts Bay is to raise sixteen regiments. To have so many of the inhabitants of the colony on good wages, in the present state of our affairs, is a great privilege. It should be so held up to the people, as an inducement for them to engage. It might be expedient, therefore, for the General Court to apportion, according to the tax-bill of the present year, the number of privates each town is entitled to have on pay in the army. And these each town should be ordered to furnish at the lines on or before the first day of January next, enlisted according to the continental establishment of the army; preference being given by each town to such of their inhabitants as have been in the camp this year, provided they are enlisted upon the twentieth day of December, instant.’

“If any part or all of this plan is wrong, you will give me your opinion thereon as soon as may be, that it may be altered.”

As the season advanced, the British troops in possession of Boston, in sufficient force to be free from any apprehension of attack, remained quietly in their quarters. The investing army, varying from day to day, and rarely superior to the enemy in effective numbers, occupied the range of high ground surrounding the basin of which the three-hilled peninsula formed the centre, and fired with reluctance on dwellings, the property, and still partially in the occupation, of their own people. It was a critical moment. A false move, resulting in defeat, would have involved proscription and an ignominious death for all the leaders who should chance to escape the battle-field. This, to the honor of the American cause, was by the patriots entirely disregarded. The consideration, which to them was paramount to all fear of personal consequences, was, that any serious reverse would subject their countrymen to the scourge of parliamentary resentment, and, for a long period to come, deprive them of rights and liberties esteemed of greater value than life itself.

Every nerve was strained, and no reasonable expedient unimproved, to keep up the strength of the army, and thus avert so fatal a calamity. This, however, was not easily accomplished. After the first bloodshed, at Lexington and Charlestown, the men of the interior had hastened from their farms and villages to the camp at Cambridge, zealous and earnest in the cause; but as the summer wore away, and the autumn set in cold and cheerless, being without proper clothing or shelter, and with but scanty supplies of food, fuel and ammunition, many became dispirited, and eager to return to their homes. Washington, realizing how much depended upon presenting an imposing front to the enemy, in the hope that the discontented might be persuaded to remain with the army, requested some of the members of the house, at Watertown, to address the soldiers whenever suitable occasion offered. James Sullivan was happily constituted for this task. Naturally of an ardent tempera-

ment, quick sensibilities, and a warm and fertile imagination, he had lived all his life in the country, and understood thoroughly the character of his auditors. His manner was graceful, his voice persuasive, and he possessed besides the best elements of an effective oratory, in his full conviction of the righteousness of the contest, and his fearless consecration of himself to what he considered his duty. John Sullivan, as also the younger brother, Eben, in the following summer a prisoner at the Cedars, possessed the same happy faculty of stirring the hearts and arousing the nobler sentiments of their countrymen; and Washington was accustomed to say that he had but to send to his soldiers, when restless and discouraged, one of the eloquent Sullivans, and they were easily induced to persevere in the contest. As short enlistments were the great embarrassment of the war, these efforts were often of great service.

One morning, while Sullivan was closeted with Washington at head-quarters, on some mission from the house, Colonel Glover, of the Marblehead regiment, which was encamped in an enclosed pasture north of the colleges, came in to announce that his men were in a state of mutiny. Washington instantly strode to his horse, kept always in readiness at the door, leaped into the saddle, and, followed by Mr. Sullivan and Colonel Glover, rode at full gallop to the camp. His servant, Pompey, sent in advance to let down the bars, had just dismounted for that purpose, when Washington, coming up, leaped over Pompey, bars and all, and dashed into the midst of the mutineers. It was on the occasion of the well-known contest between the fishermen of Marblehead and the Virginia riflemen, under Morgan; the latter of whom, in half-Indian equipments of fringed and ruffled hunting-shirts, provoked the merriment of the northern troops. From words they proceeded to blows, and soon at least a thousand combatants, armed for the most part only with snow-balls, were engaged in conflict.

"The general threw the bridle of his horse into his servant's hands, and, rushing into the thickest of the fight, seized two tall, brawny riflemen by the throat, keeping them at arm's length, talking to, and shaking them." His impetuous yet dignified bearing, and overpowering energy, instantly quelled the disturbance; and, calling around him the officers, and ascertaining the grounds of the quarrel, he took effectual measures to prevent the recurrence of similar outbreaks in the future. Mr. Sullivan, who witnessed the scene, often said, while narrating its incidents, that, from the moment he saw Washington leap the bars at Cambridge, and realized his personal ascendancy over the turbulent tempers of his men in their moments of wildest excitement, he never faltered in the faith that we had the right man to lead the cause of American liberty.

The destruction of Falmouth had excited, in the seaports along shore, apprehension of similar attacks; and, on the twenty-third of December, Mr. Sullivan was ordered to draft a resolve for the adoption of proper measures for their security. On the twenty-eighth he reported what was called the sea-coast establishment, for the organization of a force of twelve hundred men, to be distributed among the ports along the coast. In all probability with a view of being nearer his family, and that he might earn by his professional labors means for their subsistence, he accepted, on the first of January, 1776, the appointment of commissary to the four hundred men to be stationed, under the command of Colonel Frye, at Falmouth. He, however, remained until the end of the month in the house, busily occupied on a great variety of subjects, among which the militia and refugee bills were the most prominent.

His duties as admiralty judge for the eastern district, and as commissary for the troops at Falmouth, at last calling him into Maine, soon after the twentieth of January he left Watertown. While at Falmouth he employed himself

industriously, with Colonel Frye, in throwing up entrenchments for its protection. In the course of February an English frigate appeared in the offing, and approached the town with hostile menace. Frye chanced to be absent. Sullivan, rallying the men, and disposing them in strong positions, planted some old pieces of ordnance, which in reality were quite unserviceable, in a conspicuous position, and brought them to bear on the vessel. This had the intended effect, and the frigate sailed away. On the thirty-first of January he writes from Falmouth to Samuel Freeman, at Watertown:

"Since I wrote you last I have received a resolve of court, wherein I find I am directed to assist in raising two hundred and thirty-eight men in the County of York. I shall obey the orders, and do my best; and make no doubt but the men may be had, which will leave the sea-coast of this county entirely unarmed. Our arms were taken from our people, on the last of December, by the order of Congress. An enlistment for Cambridge will strip us of men for this winter; and, if our guns are again stopped, we shall be in the spring without fire-arms. I venture to affirm as a fact that more than half the men of Biddeford and Pepperellborough are now in the camp at Cambridge. The four hundred men for Falmouth can never be raised: every one who can leave home is gone or going to Cambridge. The officers appointed here have no commissions, nor has General Frye any orders or instructions. I hope you will send them by the first conveyance. If the General Court should order another reënforcement, they must draw upon this part of the province for women, instead of men, and for knives and forks, instead of arms; otherwise they cannot be obeyed."

When tidings reached Falmouth of the armed occupation of Dorchester Heights, he hastened back to the scene of operations, and was in attendance on the house when the British evacuated Boston. On the nineteenth he was

chairman of a committee to consider the state of the province, and report what should be done for its immediate defence and government; and, on the next day, the first named, with Colonel Orne, of the house, and William Sever and Thomas Cushing, of the council, to prepare an address to Washington. As there is sufficient ground to believe that this eloquent address was drafted principally by Sullivan, it is given below. He was on the committee, with Colonel Orne, Major Hawley, and Thomas Cushing, to present it.

"TO HIS EXCELLENCY GEORGE WASHINGTON, ESQ.:—
When the liberties of America were attacked by the violent hand of oppression; when troops hostile to the rights of humanity invaded this colony, seized our capital, and spread havoc and destruction around it; when our virtuous sons were murdered, and our houses destroyed by the troops of Britain, the inhabitants of this and the other American colonies, impelled by self-preservation and the love of freedom, forgetting their domestic concerns, determined resolutely and unitedly to oppose the sons of tyranny.

"Convinced of the vast importance of having a gentleman of great military accomplishments to discipline, lead and conduct, the forces of the colonies, it gave us the greatest satisfaction to hear that the honorable Congress of the United Colonies had made choice of a gentleman thus qualified, who, leaving the pleasures of domestic and rural life, was ready to undertake the arduous task.

"And your nobly declining to accept the pecuniary emoluments annexed to this high office fully evidenced to us that a warm regard to the sacred rights of humanity, and sincere love to your country, solely influenced you in the acceptance of this important trust.

"From your acknowledged abilities as a soldier, and your virtues in public and private life, we had the most pleasing hopes; but the fortitude and equanimity so conspicuous in your conduct, the wisdom of your councils,

the mild yet strict government of the army, your attention to the civil constitution of this colony, the regard you have at all times shown for the lives and health of those under your command, the fatigues you have with cheerfulness endured, the regard you have shown for the preservation of our metropolis, and the great address with which our military operations have been conducted, have exceeded our most sanguine expectations, and demand the warmest returns of gratitude.

"The Supreme Ruler of the universe having smiled on our arms, and crowned your labors with remarkable success, we are now, without that effusion of blood we so much wished to avoid, again in the quiet possession of our capital. The wisdom and prudence of those movements which have obliged the enemy to abandon our metropolis will ever be remembered by the inhabitants of this colony.

"May you still go on approved by Heaven, revered by all good men, and dreaded by those tyrants who claim their fellow-men as their property; may the United Colonies be defended from slavery by your virtuous arm; may they still see their enemies flying before you; and, the deliverance of your country being effected, may you, in retirement, enjoy that peace and satisfaction of mind which always attend the good and great. And may future generations, in the peaceful enjoyment of that freedom, the exercise of which your sword shall have established, raise the highest and most lasting monuments to the name of WASHINGTON."

On the preceding day James Sullivan had resigned his office as commissary, and likewise that of judge in admiralty, and accepted the appointment of judge of the Superior Court, then lately reorganized. The wishes of the people of Maine, that he might be appointed commander-in-chief of all forces raised in that part of the province, said to have been expressed in a petition to the court, numerouslly signed by their military officers, were frus-

trated by this acceptance of a seat on the supreme bench. He did not immediately enter upon his new duties, but continued in the Assembly up to the period of its dissolution, on the tenth of May. On the twenty-ninth of March he was appointed to wait on Washington for a map of the New England colonies. He was soon after charged with drawing up a plan of works for the defence of Boston, and his report recommended the completion of the fortifications on Fort Hill and Dorchester Heights, and the erection of new works on Noddle's Island; and, on the third of April, he was the first named by the house on the joint committee employed to carry the plan into execution. He was also chairman of a committee to take into consideration a motion to erect a monument to General Joseph Warren; and, on the third of April, reported that the place where the body had been buried, on Bunker's Hill, had been discovered, and that the lodge, of which Warren had been grand master, was desirous of performing the funeral solemnities upon the reinterment of his remains. The report recommended that leave should be granted to the lodge to carry out their intentions, but in such a manner that the government might thereafter have an opportunity of "erecting a monument to that worthy, valiant, and patriotic gentleman."

The subject of confiscations, amendments to the admiralty bill, alterations of writs, the supply of the treasury with fifty thousand pounds, the Essex memorial, the survey of Fryeburg, the resolutions for providing the several towns of the colony with entrenching tools, and the disposition of the newly-raised regiments, were some of the numberless matters confided to his charge. On the third of May he was first named in the house on a joint committee to communicate to Congress, Washington, and the governments of the New England colonies, intelligence that Lord Howe, with a fleet of sixty transports, having on board twelve thousand Hessians, had been spoken at sea,

bound to Boston; and that General Burgoyne, with four thousand Hanoverians, was going to Quebec. On the last day of the session he was appointed on the committee of war, vested, until the next General Court, with full powers for the fortification of Boston.

It was said, by John Adams, that the Revolution was accomplished before the first bloodshed at Lexington. If so, it required eight years of sanguinary conflict to convince our unnatural enemies of this truth. During this long struggle, one fortunate element of success was the intimate relation subsisting between the Congress and the provincial legislatures. Organized under an old established system, these bodies retained, with the ancient forms, fast hold on the respect of the people. Their members, the most influential men in their respective communities, kept alive the general ardor, and induced enlistments; while the soldiers, assured of their constant care and watchfulness, fought in the vindication of their common liberties, not as rebels against duly constituted authority, but under the ægis of law and constitution.

The auspicious termination of the siege of Boston naturally encouraged the hope of a favorable issue to the contest. In the faith that reconciliation was now impossible, public sentiment throughout the country entertained, without further reluctance, the idea of independence. On the ninth of May Sullivan wrote to John Adams the following letter, which must have reached Philadelphia when the subject was under discussion:

"To intrude on one who, in the greatest political tempest, is tied to the helm of the mighty vessel of empire, wrecked and tossed by the whirling blasts of despotism, must give disagreeable sensations to one, if there is such, of less sensibility than myself. But, as the greatest events are swiftly impelling each other upon us, and each moment in the present being worth an age in any other time, I

dare not oppose the violent propensity which urges me to address you.

"Taking it for granted, such is the celerity of the American world to independence, and so obvious the decrees of Heaven for that grand event, that the sluggish motions of the irresolute, and the weak and scandalous efforts of the tyrant, are alike unable to prevent it; the important question is, what shall be done by this colony? Shall we urge you to an acceleration of the wheels of fate, and force you to translate us into an independent world immediately? Or shall we only assure you that we are ripe for the measure, and are in danger of being rotten before the proprietary governments are ripe? There are many among us who dread the change, as good men do their natural dissolution; perfectly pleased with the idea of an hereafter, 'but stand trembling on the brink, and fear to launch away.' But none are there who do not heartily engage to support the measure, if the Congress should pursue it.

"A bill is passed by this court for a more equal representation. I sent it to Mr. Gerry, who will show it to you. This unwieldy Assembly will undoubtedly settle a constitution, and provide a less numerous Assembly than themselves.

"We are daily altering our old, unmeaning form of government, as you may learn by the Stile Bill, a history of which I sent Mr. Gerry; and I hope we shall attend to it, when the defence of our country calls not our attention another way, until it is made a basis of liberty, and not a path to vassalage and lawless domination. Some are for writing to the Congress for leave to assume a new form of government; but my mind is otherwise. I think it would be attended with the greatest anarchy, as it would leave the people for a time without any rulers; and, to be free on the subject, I have many doubts whether the Congress has, or ought to have, power to regulate the internal police of

the different colonies; their business being, in my opinion, only to regulate the matters between government and government, for which particular assemblies are incompetent. I am, therefore, for attending to this matter ourselves, and for altering our constitution, piece by piece, in a manner the least alarming to our sister colonies, until we shall reduce it to true republican principles.

"But, dear sir, I am obliged to tell you that public virtue is almost swallowed up in a desire of possessing paper currency; and parsimony, in the modest and charming dress of frugality, together with covetousness, in the shining robes of private justice, does us much injury. The solemnity of a senate has left us, and such a levelling spirit prevails, even in men called the first among mighty, that I fear we shall be obliged to call in a military force to do that which civil government was originally designed for.

"The idea that the representatives are the servants of the people,—that they create the Council, who are the creators of all civil executive officers,—never ought to be lost. But the idea that he who is set up by the whole people is greater than any individual, is equally important; and I am sorry to say that the latter is lean, pinched, and scarcely allowed an existence among us.

"Here are the quicksands which I dread; and wish that you would, in your letters to those who have the honor and happiness of your correspondence, deal largely on this subject, and endeavor to pilot us over these shoals."

CHAPTER V.

ON THE BENCH.

NOTWITHSTANDING his repeated absence on public affairs, in New Hampshire, at the lakes, and at Falmouth, and his detention at home for many weeks, by the severe attack of illness consequent on the expedition to Ticonderoga, James Sullivan had accomplished, since first returned as delegate to the Provincial Congress eighteen months before, a large amount of legislative labor. Many of the laws enacted were of his drafting, and he had served on more than one hundred committees; a number not probably exceeded in any other instance on the journals, and most of them charged with important subjects of consideration.

The patriotic zeal and professional ability exhibited in the performance of these various duties had recommended him as a suitable candidate for a seat on the bench of the Superior Court of Judicature. On the records of the Council, then clothed, among its executive functions, with the power of appointment, is his letter of acceptance of this office. It is dated March 27, 1776, the day before the presentation of the congratulatory address to Washington on the evacuation of Boston, and is as follows: "I am informed by the secretary that the honorable Council have appointed me a justice of the Supreme Court, and that they request my answer thereto. Since the appointment forbids my saying that I am entirely incapable of transacting the business incident to that office, I beg

leave to acquaint you that I shall cheerfully accept of, and studiously endeavor to qualify myself for, the honorable and important seat assigned me. The present relaxations of government, and the many difficulties in straightening the reins thereof at this critical juncture, would be very discouraging, were it not for the great abilities of the honorable gentlemen I am to sit with. This appointment is the reason of my begging to resign the office of judge of the maritime court for the eastern district of this colony, to which some time ago I had the honor of being appointed."

He had not yet completed his thirty-second year, and this was certainly a flattering distinction, but one which seems to have been justified by his acquirements, and by the good sense and probity which constituted prominent elements in his character. John Adams and James Warren had been also selected for the same bench by the Council; but Mr. Adams had proved himself too valuable a member of the Continental Congress to be spared from that more important theatre of action, and General Warren presided over the Assembly. The judges who formed the court with Mr. Sullivan, were William Cushing, one of the earliest afterwards appointed to the Supreme Court of the United States under the federal constitution, Jedediah Foster, his associate commissioner to the lakes, and Nathaniel Peaslee Sargent, who succeeded Judge Cushing as chief justice in 1790, when the latter was removed to the federal court. David Sewall was added to their number in the year 1777.

The office, if one of honor, was not unattended with danger to the incumbent, and it was well said, at the time, that the judges sat with halters round their necks. Had the struggle for independence ended in disaster, and the government, pursuing the same vindictive policy that had marked every similar conjuncture, selected examples as a terror to disobedient subjects, they would have been among

the first to mount the scaffold. But other anxieties were of more moment to them. They were called upon, in the discharge of their judicial functions, to carry out, without fear or favor, the stern dictates of the law ; and these often pressed with the greatest severity upon the patriots who had made the most generous sacrifices in the cause of liberty. The interruption of business, and universal distress under the heavy taxes and high prices incident to war, had produced embarrassment in all classes, and a general reluctance, and in most instances a positive inability, to meet their obligations. A long period had elapsed since resort could be had to the legal tribunals, and a vast accumulation of broken contracts and debts unpaid aggravated the feverish disturbance of society, already sufficiently depressed and discouraged under its perils and privations. For its restoration to a more healthy condition much litigation was demanded, and the courts were soon actively engaged in this task. For the satisfactory solution of the various novel questions of grave importance growing out of the new and perplexed condition of affairs, there was needed, not only wisdom and experience, but much learning ; and it was not easy to procure even the common books of reports and reference. Had not the Assembly permitted the judges to purchase the few law-books belonging to the confiscated estates of the refugee lawyers, they would have been often compelled to rely upon their memories, or to have created, out of their own sense of reason and justice, the law, as they wanted it, for the decision of their causes. If they were ever at fault, no reports remain to betray it ; and they enjoyed the reputation of being able, learned and correct, in their conclusions. Sullivan was young, and sufficiently diffident of his qualifications for so responsible a post to be ambitious to improve ; and he doubtless gained, from his long association on the bench with a jurist of the great learning and experience of Cushing, much that contributed to make his future life eminent and honorable.

Prior to the adoption of the state constitution, in 1780, the judges were not disqualified as members of the General Court, or Council. Judge Sullivan was again returned from Biddeford, for the year 1776-7, to the Assembly, which met at the end of May. In the recess, when not occupied on the bench, he was busily engaged on the Committee of War, under General Lincoln, providing for the defence of Boston. The works at Fort Hill, on Dorchester Heights, and Noddle's Island, were completed, and hulks sunk in the channel to prevent ingress to the harbor.

He writes, on the seventeenth of May, 1776, to John Adams: "By this conveyance you will have the news of the capture of the ship *Hope*, with seventy-five tons of powder, and one thousand small arms. This is a grand acquisition. We now expect to be well provided with powder. Nine tons were purchased last week, by this colony, at six shillings a pound. We have one powder-mill, which makes a thousand pounds weekly, well grained and very good. Our works are very extensive round Boston, and a great many men must be employed to support them. The fortifications go on briskly. A great deal is done; and there is a great deal more necessary to be done, in order to defend this colony. But, unless Congress will now repay the powder we lent the army, we can by no means equip our militia, on whom it seems we have chiefly to depend. We have received your late resolve making us a present of the cannon left by the enemy; but, as nothing is said about the shot, shells and carriages, General Ward is at a loss about letting us have them. An explanation of the resolve in this respect would do us much service.

"I should be very glad that you would return, if the business of Congress will admit of it, by the third Tuesday of June, as the Council has ordered the court to sit at that time in Essex. We have met and appointed a clerk; but, as Judge Cushing has promised to write you on the sub-

ject, I need say no more. J. Winthrop, Esq., is appointed clerk."

Meanwhile, his brother John, after superintending the embarkation of the continental army for New York, had been ordered with reinforcements to the Northern Department; and, early in June, by the death of General Thomas, became commander-in-chief in that quarter. The large accessions, however, under Burgoyne, to the British troops on the St. Lawrence, discouraged on our part any further offensive operations, and destroyed all hope, for the time, of Canadian coöperation in the struggle for liberty. General Sullivan gained the esteem of his subordinate officers, many of whom were afterwards among the most distinguished generals of the war, by his energy and good conduct under circumstances peculiarly trying; and their address, upon his departure to join the central army, expressed for him the most profound sentiments of affection and respect. In August he was at the battle of Long Island, and, after fighting for nearly three hours with a handful of men against vastly superior numbers under De Heister and Clinton, was slightly wounded and taken prisoner. He was sent by Lord Howe with proposals of conciliation to the Congress at Philadelphia, without other result than an ineffectual conference; and was soon after exchanged for General Prescott, an English general taken in Canada.

On the twenty-second of September Judge Sullivan writes Mr. Adams:

"You have, doubtless, had the intelligence of our sending one fifth part of our militia, under the command of General Lincoln, to reinforce General Washington. I wish they may not be too late. We have been a long time lulled with the story of a conference; but are now awakened by the loss of New York, which we apprehend to be a most alarming stroke. It is said that the enemy may send their largest ships up the North River, near sixty miles; that

General Washington has nothing to build barracks with, and many reports of that kind ; and, what is worse than all, that our army retired from New York in the greatest confusion, some throwing away their arms. Surely, sir, if this is the state of their minds, we have but little to hope, and our enemies but little to fear.

“ The capture of General Sullivan is the most disagreeable circumstance I have met with in my whole life. I am extremely anxious about him. Had he died in battle, then I should have done with him. The idea of his capture has ever been disagreeable to me ; and, since I have been here, it is reported that, though he has been to the Congress with proposals of exchange, he is not in any probable way to be released. Pray rob the world of one moment, and write me plainly on this matter ; and, either by confirming or dispelling my fears, give me a moment’s rest.

“ The court sat at Braintree on the second Tuesday of September, and had the honor of dining with your lady. At this court the privateer company of Philadelphia, Moore, Mercer and others, had a prize tried. The opinion of the court was for discharging a part of her ; but the jury did not agree, and the cause is continued. I understand that the captors are much dissatisfied with the court. It seems that the vessel was taken on the twelfth of May, brought in the sixteenth of June, and libelled the twenty-second, part British, part West India, and part Spanish property ; the Spanish property in money. The captors urged that, on the day of Lexington battle, there was a war begun between Britain and America, and that each individual in either state had a right from that time to seize the property of any individual of, or subject to, the other state, whereby the property of the West Indian became liable to seizure by Americans ; that the resolve of the twenty-fourth of July, for extending that of the twenty-fourth of April to captures of West Indian property, had a retrospect, and that it justified the taking this ship on the twelfth of May. The

court were not of that opinion. Why the captors did not withdraw their libel and make a new seizure, and declare *de novo* on that, I cannot tell ; but that might have healed the difficulty at once. I trouble you with this that the Congress and the Pennsylvanians may not suppose that Massachusetts is unwilling to condemn prizes. But I should wish the world to know that we will not pervert justice on any account."

Eben, the younger brother of James, now twenty-three years of age, as captain of a company raised in Berwick, of which Nathan Lord was lieutenant, had been present at the battle of Bunker Hill, and afterwards went with the expedition into Canada. In May he was sent by General Arnold from Montreal, with Major Sherburne, who had under his command one hundred and forty men, to relieve Major Butterfield, who, with a force of four hundred, was in garrison at the Cedars, a small fort forty-five miles to the south-west. The route was difficult ; and, though they left the camp on the sixteenth, four days later they were still nine miles from their destination. Not learning that Major Butterfield had surrendered the day before, Major Sherburne started at noon on the twentieth with one hundred men, the rest having been left on the way ; and, after marching five miles through the woods, they were attacked, in open ground, without shelter, by one hundred Canadians and four hundred Indians. After an unequal contest of one hour and forty minutes, in which they contrived to kill twenty-two of the enemy, of whom one was a principal chief of the Senecas, with the loss of twenty-eight of their own number, they were surrounded and overpowered, the savages running in and disarming them. They were stripped, some of the party slain in cold blood, and the others driven to the fort, which was now in command of a British officer, Captain Foster. Major Sherburne and the officers were sent to Connesedago, near the Lake of the Two Mountains ; the privates taken to an island, where they

were kept for eight days without clothing, and exposed to the weather. General Arnold entered into an agreement with Foster for an equal exchange of prisoners within two months; and Captains Sullivan and Bliss, of Sherburne's party, and Captains Stephens and Green, of Butterfield's, volunteered as hostages for the faithful performance of the conditions.

Eben was carried into the forests by the Indians, and remained some time their prisoner. On one occasion, while he was seated with them round the fire, over which was suspended a caldron containing their dinner, one of the Indians grossly insulted him; whereupon, being of quick temper, and heedless of consequences, he seized the ladle and flung some of the hot broth over his assailant. The savages immediately seized and pinioned him, and, tying him to a stake, piled about it fagots, which they were in the act of kindling to roast him alive, when, fortunately for their intended victim, an English officer entered their camp. His earnest expostulations arrested their proceedings, and Eben was spared, as he had reason to suppose, for an equally cruel death at a future day. Many weeks passed on, during which he was subjected to various tortures, ingeniously devised to shake his firmness, and led again to the stake, with the professed design, not, however, put in execution, of giving him to the flames. Knowing enough of Indian character and habits to realize that his safety depended in submitting without fear or flinching to these trials of his endurance, he bore them all with heroic fortitude.

The compact of Foster and Arnold was not carried out, and remained long a subject of controversy, the English general refusing to sanction the terms agreed upon. When Captain Sullivan obtained knowledge of this refusal to comply with the stipulations for which he had made himself a hostage, feeling that the conduct of the savages towards him had been contrary to all rules of civilized

warfare, he concluded he was under no further obligation to remain. Watching his opportunity, when the Indians, on some festive occasion, after their games, dances and carouse, had sunk at night into profound slumber, and the two sentinels, cheated out of their vigilance by his pretended sleep, were taking their repose, he glided silently out of the camp, and made for the bank of a neighboring river, in order to swim across to a Dutch settlement which he knew to be on the opposite shore. The shout of his pursuers was heard as he entered the water, and, when near the middle of the stream, the splash of their dog, a large and ferocious animal, as it entered the river. He turned, and, as the dog approached, managed with one hand, while he supported himself with the other, to press its head beneath the surface, and, having drowned it, to effect his escape. Some days later, fearing that, having volunteered as a hostage, his honor might be implicated by his flight, he surrendered himself to a British officer, and was taken to Montreal. It was many months before his exchange could be effected, so as to admit of his resuming active service, much to his chagrin, as shown by various letters of his in print. We find him, however, in 1778, aid of his brother, the general, in the Rhode Island campaign.

No apology seems needed for this long digression from our immediate subject. Judge Sullivan was affectionately attached to his brothers, and his solicitude that they should acquit themselves honorably in the contest, and his lively interest in the various vicissitudes which befell them in its course, is abundantly manifest by what little remains of his correspondence at this period. Their services and sufferings undoubtedly served in some measure to increase his own hold upon the esteem and affection of his countrymen.

When the house met, on the nineteenth of July, the first time for two years, at Boston, he was appointed to

prepare rules and orders for its government, and also to report what standing committees it was advisable to nominate. He was not long in attendance before his other duties called him elsewhere. He was present again in the autumn, and was called upon in committee to deliberate upon the condition of the state, and of its treasury.

On the fifth of September it was ordered that Sullivan, Hawley, Palmer, Jackson and Angier, should be a committee to prepare an address to the honorable Continental Congress, signifying the approbation of this colony of their declaring the colonies independent states, and the readiness of this colony to support them therein; and to request them to form a confederation, and to delineate the powers necessary to be held by that honorable assembly. Sullivan was further called upon to draft an address to the people upon the true state of affairs, and another to the officers and soldiers of Massachusetts in the army, that they might become more contented and zealous in the service. He was also charged with the supervision of our maritime laws, the preparation of a bill for the punishment of traitors, and in November was on a committee to procure reinforcements for the army.

His selection to draft four important papers for general perusal, within as many weeks, is a flattering proof of the estimate entertained of his success in this species of composition. The warmth and force of his expressions were well suited to the crisis. No response has been found to the Declaration of Independence. It may have been concluded unadvisable or superfluous; or, possibly, when it was known none were intended by other states, thought best to be omitted. The address to the soldiers in the army, and that to the people, to be read at stated times from the pulpits of Massachusetts, were prepared. The latter, adopted by the General Court the twenty-sixth of January, 1777, is given below as a specimen of one method to which resort was then had to preserve the public

pulse at the right beat. It is taken from his own draft, which was amended in some few expressions, though not, with all deference to the fathers of the republic, in all instances improved. These addresses, when reported to the Assembly, were subjected to rigid criticism, and the corrections, being made at the suggestion of various minds, did not always harmonize with the original text. The address to the army is equally spirited, and will be found in another place.

"FRIENDS AND COUNTRYMEN: When a people, within reach of the highest temporal happiness of which human nature is capable, are in danger of having it wrested from them by an enemy whose paths are marked with blood; and an insupportable load of misery, which succeeding generations must bear through painful centuries of time, is offered instead of it; to rouse the brave, incite the generous, quicken the slow, and awaken all to a sense of their danger, is a measure as friendly as it is important.

"The danger of having your towns, your families, your fruitful fields, and all the riches and blessings derived from the industry and wisdom of your venerable ancestors, who may justly be ranked among the most virtuous and brave men that the world ever produced, ravished from you, and possessed by a banditti whom no laws can control, and whose aim is to trample upon all the rights of humanity, would be sufficient to give the coward courage, and animate to the greatest feats in arms the most supine and indolent. Surely, then, while America, the asylum of happiness and freedom, is infested with a foe whose sole aim is to rifle her sons of every enjoyment that can render life desirable, you will be ready in arms to defend your country, your liberty, your wives, your children and possessions, from rapine, abuse, and destruction.

"For this grand and noble purpose, so worthy of the virtuous and brave, and we humbly trust so pleasing to Almighty God, you have by your delegates assembled in

council for several years past ; for this, in April, 1775, you arrayed yourselves in arms, defeated and put to flight that band of Britons, who, uninjured and unoffended, like robbers and murderers, dared to assault your peaceful mansions ; and for this we trust you will be at all times ready to spend your blood and treasure.

“ In addressing you upon the important subject of your own defence, should we attempt a narration of the causes of your danger, the many petitions you have presented, praying but for peace, liberty and safety, and to avoid the necessity of shedding the blood of your fellow-men, and the unexampled indignity and contempt with which those petitions were treated, it would be undeservedly to impeach you of inattention to your own safety.

“ Let it suffice, then, to say that, when every other method taken by you was productive of nothing but insults ; and that flames in your houses, murders on your persons, and robberies upon your property, were returned in answer to your peaceable, humble and dutiful petitions ; when the force of Britain, with that of her allies, was collected and drawn into exertion, to reduce you from ease and affluence to slavery and vassalage ; the Congress of the United States, despairing otherwise to establish your safety upon principles which would render it durable, made that Declaration by which you become independent of Great Britain, and in which character alone you can be secure and happy.

“ But, as the increasing power and opulence of the United States are now the dread and envy of those whose avaricious and ambitious minds had laid a plan for the monopoly and enjoyment of them, a large army is necessary for your defence ; and the Congress have therefore determined upon eighty-eight battalions, of which fifteen are to be raised by this state. The militia, who have been marched to aid the army under the conduct of that man whose fortitude, virtue and patience, is perhaps without

example, and who hourly, without any reward but the approbation of his own mind, is risking his all in your cause, will soon be on their return. The enemy, angry at the chastisement justly given them for their unprovoked cruelties to our brethren in the Jerseys, are watching an opportunity to return the blow.

“A further draft from the militia would so much burden the people of this state, that this court cannot think of it without pain and anxiety. We have, therefore, being sensible that you need no other stimulus to your duty than having the line of it drawn for you, directed that a number of men, amounting to one seventh part of all the male persons of sixteen and upwards, should be immediately engaged in the continental army, upon the encouragement given by government. This encouragement we conceive to be greater than any ever yet given, even to the greatest mercenaries. Surely, then, a people called to fight, not to support crowns and principalities, but for their own freedom and happiness, will readily engage.

“That the encouragement given might fully answer the designs of government, and the expectation of the soldiery, this court have settled the price of every necessary and convenient article of life produced in this country, and also the price of foreign goods in a just proportion to their price in the place from which they are imported, considering the risk of importation. And nothing is now wanting, to give value to the soldiers' wages and stability to our currency, but the vigorous and punctual execution and observance of that act, which we hope to see speedily effected by the public virtue and zeal of this people in the cause of their country.

“But, lest some of you should be deceived by the misrepresentations of designing men, we must remind you that all the pretensions to peace and reconciliation, so pompously dealt out in the insidious proclamations of the commissioners of the king of Great Britain, amount to

nothing more than an invitation to give up your country, and submit unconditionally to the government of the British Parliament. They tell you that their king is graciously disposed to revise all acts which he shall deem incompatible with your safety. But your good sense will lead you to determine, that, if he is a prince worthy to reign over a free people, and a friend to the rights of mankind, he would long ago have determined as to the justice of those acts, and must have seen them founded on despotism, and replete with slavery. But they do not tell you that their sovereign has the least intention to repeal any one of those acts. Surely, then, a revision of them can never restore your freedom, or in the least alleviate your burdens.

"But these commissioners, although they offer themselves as the ambassadors of peace, and invite you to what they call the mild and gentle government of Britain, mark their footsteps with blood, rapine, and the most unexampled barbarities, distributing their dreadful and savage severity as well to the submissive as the obstinate; while neither rank, sex or age exempts any from the effects of their brutal passions.

"Should America be overcome by, or submit to, Britain, the needy and almost perishing tenant in Ireland, disarmed and having but little property in the production of his toil and labor, selling the bread for which his tender infants are suffering, to pay the haughty landlord's rent or insulting collector's tax, would be but a faint resemblance of your calamity.

"Society, where no man is bound by other laws than those to which he gives his own consent, is the greatest ornament, and tends most of all things to the felicity of human nature, and is a privilege which can never be given up by a people, without their being exceedingly guilty before Him, who is the bestower of every good and perfect gift.

"We, therefore, for the sake of that religion, for the enjoy-

ment whereof your ancestors fled to this country, for the sake of your laws and future felicity, entreat and urge you to act vigorously and firmly in this critical situation of your country. And we doubt not but that your noble exertions, under the smiles of Heaven, will insure you that success and freedom due to the wise man and the patriot.

"Above all, we earnestly exhort you to contribute all within your power to the encouragement of those virtues for which the Supreme Being has declared that he will bestow his blessings upon a nation; and to the discouragement of those vices for which he overturns kingdoms in his wrath; and that, at all proper times and seasons, you seek to him by prayer and supplication for deliverance from the calamities of war, duly considering that, without his powerful aid and gracious interposition, all your endeavors must prove abortive and vain."

His most usual associate in the preparation of these papers was Major Hawley, who had early appreciated the character of Sullivan, and received him into his confidence. Belonging to the same profession, they were constantly together on committees, and in consultation where changes were to be made in our system of jurisprudence. Twenty years his senior, the earnest enthusiasm and devotional spirit of the veteran patriot exerted a powerful influence over the opinions and sentiments of his more youthful companion. Few names connected with the Revolution stand out in bolder or brighter relief than that of Joseph Hawley. From the commencement of the disputes, in 1763, he was the leading representative in the Legislature from the western part of the province; and, by the animation and sound sense of his writings, and profound acquaintance, not only with the learning of his own profession, but with the standard authors on government and political ethics, took a prominent position in the noble phalanx engaged in support of colonial rights. But the great element of his strength

was in his genius as an orator. Not even the fiery ardor of James Otis, nor the clear but fervid reasoning of Samuel Adams, had more general sway over the Assembly. Grave even to sadness by nature as well as from a consciousness of the coming conflict, which his penetration was the earliest to foresee, his uncompromising fearlessness and undaunted bearing inspired courage in the rest. For his bold vindication of popular rights his name was struck from the rolls of his profession; but this, which was designed to intimidate, merely served to render more intense his detestation of arbitrary power. His stern denunciations of the measures of the Parliament, in language which, though unstudied, had all the effect of the loftiest eloquence, aroused, even in the bosoms of the cold and the calculating, a determination to sacrifice every feeling of self upon the altar of liberty.

If Patrick Henry was an illustrious example of the generous and chivalric spirit of Virginia, Hawley no less embodied in his character, as an orator, all that was noble and elevated in that of the Puritans. His religious sentiments had been formed under the pastoral guidance of his relative, Jonathan Edwards, the popular saint of New England, who united the greatest intellectual vigor of his own age, or perhaps of any other, in his particular walk, with the devotional fervor and self-humiliation of the most faithful follower of Christianity. Profoundly imbued with the austere tenets of Calvinism, a deep sense of religious responsibility followed Hawley into the discharge of his public duties, and impressed upon his eloquence a character of subdued earnestness somewhat akin to that of the ancient Covenanters, and which was well calculated to find ready access to the hearts and judgments of his countrymen.

While living up to the requirements of the faith he professed, he was contented to adopt the severity of its exactions as a standard for his own conduct. To others he

was generous and indulgent. Frugal even to asceticism in his personal habits, he was social, charitable, and given to hospitality. In circumstances exceedingly moderate, he wished not for wealth; and the most able advocate of the western counties, and constantly engaged in important causes, he was often reproached by his professional brethren for his reluctance to be recompensed, and for the inadequate price he placed upon his labors. When the great object for which he had contended appeared in the full tide of success, he turned away from the worldly honors he was entitled to share, and devoted the rest of his days to religious duties and preparation for another world. The natural depression of his spirits deepened at times into a gloomy melancholy; but, if this clouded the cheerfulness of his existence here, it perhaps the better fitted him for that beyond the tomb.*

Whenever Sullivan attended the courts at Northampton he was the guest of Hawley. And it seems reasonable to believe that for much of the profound religious sentiment which characterized him through life he may have been indebted to the example and influence of a friend whom he so greatly revered and loved. The following letter, which he wrote from Boston on the nineteenth of February, 1777,

* Stoddard, the grandfather and predecessor of Edwards, at Northampton, had encouraged all his parishioners, whether serious and consistent believers of Christianity or not, to partake of the communion. By his influence this, though strenuously opposed by Increase Mather and others, was adopted very generally among the churches in Hampshire, and in other parts of New England. Edwards disapproved of this doctrine, and thought that only real Christians should go to the altar. This created a ferment in the parish, whose friendly feelings he had already alienated by his earnest efforts to correct their irregularities. After he had been twenty-four years settled as their minister, he was removed by council. Hawley took an active part in the removal, but ever after felt compunction for his conduct; and, ten years later, in his letter of May 9th, 1760, to Rev. Mr. Hall, of Sutton, expressed his profound grief for the wrong he had inflicted on one who had been friendly to him from childhood, and to whose instructions he was indebted for so much that was excellent in his own character.

to his friend, then at his home at Northampton, remains among the Hawley papers :

" It gives me the greatest uneasiness to hear that your old disorder has so far returned, as to prevent your giving assistance to your country at this critical moment. As the ensuing summer will open with the full-blown blossoms of American freedom, and, perhaps, by autumn these blooms will be ripened into delicious and permanent fruit, I should think it but just that you should enjoy among your old friends a full share of its flavor, and, therefore, hope soon to see you with your usual flow of spirits.

" The state of our affairs is at present promising, not so much from our late successes in the Jerseys as from appearances in Europe. Dr. Franklin has arrived out safely. A war with France is inevitable. Tufton, in the Tyrannicide, has arrived, and I have this day seen him. He took a brig, the captain of which left London on the fourth of November. He says the court of Britain ordered their minister at the court of France to demand the dismissal of Mr. Deane, and, if France refused, then to take his leave without the usual ceremonies. The court of France absolutely refused to dismiss Deane, and the British ambassador had come off. The king's speech, you will see, indicates a war, and the tories as well as whigs expect it. The American cruisers carry their prizes into any part of the dominions of France, and sell them there.

" We have procured, and this day received in town, a return of the enemy in Howe's army. There are but thirteen thousand men. The people appear to be everywhere in fine spirits, and I think our affairs never looked so promising before. Judge Tudor writes that General Heath has leave to return. I have nothing more to communicate but my ardent wish that you would come down where you might have the benefit of the sea-air, and the cheerful converse of your friends."

The claims of his judicial duties upon his time increasing,

Sullivan did not suffer himself to be returned to the Legislature for the year 1777-8. In June that body appointed a joint committee of the house and council to prepare a constitution, which was reported in January, 1778; but, when submitted to the people, it was rejected by a large vote. It contained the objectionable feature, which he disapproved, a property qualification for electors, as did also that adopted two years later. The restrictions upon the perfect equality of the elective franchise were abandoned only in 1820. On the twenty-fourth of March, 1777, he writes from Biddeford to James Warren, speaker of the house: "I am very uneasy since I heard that you were upon a plan of a new constitution. I dread the controversy about the qualifications of electors, and am apprehensive that, whenever it is determined, let it be in favor of the men of estate, or to give all an equal vote, one party or the other will be disaffected, if not lost. And this is surely no time to make divisions among ourselves."

In the same letter he says: "I enclose you an act relating to tory estates, that was committed to me. I have many objections to the plan of it. I see no provision that the rents and profits of such estates shall be to the use of the public; and the whole seems rather a provision to take care of the estates for other persons, and not for the government. I also enclose you a paper containing a rough draft that I apprehended to be in some sort better. If the house, upon considering it, should adopt a plan of that kind, it would be of good service. I have made no provision for families left, and am at a loss to know why the personal estate should be more exempt from paying the debt now than if the absconder were at home. However, a provision of that kind may be drawn."

The preparation of the various bills for proscribing refugees, and others inimical to the cause of liberty, as likewise for the sequestration of their estates, had, from the commencement of the struggle, been devolved upon him by

the Legislature. On all suitable occasions he advocated the payment of the debts of the refugees out of the confiscated property. The impartial application of these statutes to all who came within their provisions, and his fearless disregard of the resentment of the powerful, who would have shielded their relatives and friends from the equal operation of the law, are entitled to high commendation.

The right of confiscating property for political opinions, an arbitrary power only to be justified in extreme cases, and upon the principle of self-preservation, was exercised by the people of Massachusetts during the Revolution with great moderation. While necessity required that the loyalists, engaged in subverting the established and generally recognized government, should be treated as traitors, and deprived of the means and power of being dangerous, there was a generous toleration of all who kept neutral, and gave no aid or encouragement to the enemy. The refugees and tories were among the wealthiest men in the province. Their property consisted largely of lands and estates in the more densely peopled districts, which could have been easily appropriated to the necessities of the government, and commanded even in times of embarrassment a ready sale. The number of these estates restored to proprietors, who returned during the war, or afterwards, and took the oath of allegiance to the commonwealth, and the small amount, less than one hundred and twenty thousand pounds, which formed the total of credits, down to 1795, passed to this account in the great ledger of the state, should ever be remembered to the praise of the patriot leaders, who never permitted their resentment to impair their sense of justice. Out of this amount, small as it is, large deductions of nearly one half are to be made, inasmuch as the debts of the refugees were paid out of the proceeds of their property. Had the contest resulted in favor of Great Britain, and her policy been as unforgiving and relentless as at previous periods of her history, a much

less merciful spirit would have been manifested to her rebellious subjects. Indeed, it was at one time proposed in her Parliament that the war should be made to support itself by forced contributions whenever opportunity offered. There was no reason whatever to believe that, in case the rebellion should be put down by superior force, the more prominent actors in the drama, if spared the extreme penalty of the law, would have escaped the confiscation of their property.

In an estimate of the character of the leaders of the Revolution, every candid mind is forced to the faith that neither selfish greed nor personal ambition mingled to any extent with the purity of their patriotism. No one, under the influence of ungenerous motives, would have embraced a cause where defeat was proscription and death, and where all the rewards to be anticipated from victory could be but the gratification of beholding his country happy in the possession of her rights, and the grateful sense of having been useful in her hour of need. The chances were greatly against success; and, during the earlier periods of the struggle, there was much reason to believe that, even though the contest might end eventually in independence, that great object could never be achieved without years of bloodshed and impoverishment. This was sufficiently disheartening. In the troop of calamities that desolate a country under the scourge of civil war, few are so fortunate as to escape participation. We will not speak of the soldier without his pay, barefooted, and in rags, exposed to the scorching sun, or to intense suffering from starvation and the winter's cold, nor dwell upon the afflictions brought home to every household by frequent deaths in battle or disease. These are inseparable concomitants of war. But, among its many minor evils, sensibly felt in our Revolution, were others less appalling, which still pressed with great severity upon all classes of our patriots. Heavy taxes were constantly assessed, levies and

distraints disturbed the tranquillity of nearly every household. Privations were easily borne; frugality, when habitual, has little hardship; but the long separation of the husband and father from his home, the apprehensions and anxieties for the safety of wife and children exposed to injury and aggression, must have mingled largely in their trials. The members of the Congress, and of the various assemblies, which were together the greater part of the year, the officers and soldiers in the army, and many of the leaders in diplomatic service abroad, were necessarily compelled to forego the pleasures of domestic life, and make their duties to their families secondary to their obligations to the state.

Fully alive to the importance of the crisis, Judge Sullivan permitted no private considerations to interfere with the claims of his country. For two years he had been almost incessantly engaged away from home, and it was naturally a source of great satisfaction for one affectionate in disposition, and warmly attached to his family, to be with them again in 1777, though but at short intervals. There was everything to make that home a happy one. His wife was a woman of great amiability of character, and superior intelligence; and he had now four children, between the ages of eight and infancy, requiring his care. His house was beautifully situated near the falls of the Saco, and there was much in its neighborhood to interest one so devoted to the pleasures of the country. He had been always fond of sporting; and a gentleman still survives at Biddeford, who remembers having been, that summer, now more than eighty years ago, his companion on a fishing excursion, when they brought back at night a full basket of trout.

He was much beloved by the people of the place, who again chose him one of their Committee of Safety; and, he, in return, was energetic in keeping alive their patriotic spirit. Much of the ready zeal they manifested was due to

his exertions, and the great influence he exercised. "A large proportion of the inhabitants," says the historian of Saco and Biddeford, "were occasionally in the service of the country during the war. Demands of men and provisions were constantly occurring; and it is believed that no town in that section of the commonwealth contributed more liberally to the wants of the army in both particulars. A profound respect was ever entertained there for the character and talents of James Sullivan, from the period of his first settlement among them as a young attorney. He was himself ready to acknowledge, at a later date, when holding a high and enviable rank among his cotemporaries, the obligations which their favors had imposed upon him. 'I have a grateful remembrance,' he says, in a letter to his friend, Colonel Tristram Jordan, 'of the marks of confidence, and the acts of kindness done me by the people on your river; and, whenever I can reciprocate their kindness, I shall cheerfully do so.'"

He was again in Boston in September, and writes to his brother John: "I have just heard of your descent on Staten Island, and am glad to hear you have returned in safety. Your good lady and family are well. I have heard transiently that you are in an ill state of health; but that, by a strict regimen, you are mending.

"I enclose you two or three papers. There is not much in them, but they may serve as a moment's amusement. A ship arrived yesterday with twelve thousand and nine hundred bushels of salt, and other goods, taken by the *Tyrannicide*, a Massachusetts brig. Several of our public vessels have arrived, within this day or two, from France and Spain, with clothing, tents and arms; one with ten thousand pounds sterling in value of Dutch cordage. The stores imported by the Massachusetts board of war are immense. The ship, first mentioned, had papers as late as the sixth of June. They are now before me, but not within my power to send. Lord North assured the house that the army in

America had succeeded well, several provinces being reduced to their allegiance, and many others ready to submit. These falsehoods, written home by officers and Tories, are really surprising. They have not the least doubt that we are already conquered. The Earl of Chatham, on the twenty-ninth of May, made a motion for a petition to his majesty to settle the American dispute; but it was made in such a manner that unless we would accede to their proposals they were ruined. This was rejected by a large majority.

"The enclosed strictures were written before St. Clair was arrested, and were intended for the press; but, upon the determination to try the officers, the matter has subsided. You will take them as they are, and I wish there was no foundation for them. We are at a loss to know or determine what is truth respecting Ticonderoga. Schuyler's letter to the New York Convention says that St. Clair had five thousand men, in health, well armed and clothed, and with plenty of provisions. To Congress he writes that the army was naked and unarmed. Officers differ in their accounts, and all is doubt and uncertainty.

"You know, when you armed the New Hampshire troops, that four thousand stand of arms complete went from Massachusetts, with clothing, frocks and other necessaries. Our Council are preparing a state of our supplies to lay before Congress, whereby it will appear to demonstration that the northern generals have much abused us."

This was an eventful year to General Sullivan. After the capture of General Lee, in the preceding autumn, he had led the troops, which had been under Lee's command, to join General Washington, and, on Christmas night, passed with him the Delaware, and in command of the right wing fought the battle of Trenton. He distinguished himself at Princeton, and, during the remainder of the winter, had been constantly on the move in advance of the entrenchments at Morristown, preventing the marauds of the enemy, and keeping them, though ten times his num-

ber, within their lines. He subsequently made a descent on Staten Island, with quite success enough to justify his having undertaken it, and commanded the right wing at the battles of the Brandywine and Germantown, having been in both battles in the position of greatest responsibility. The two brothers, no doubt, constantly corresponded, but very few of their letters remain. This is much to be regretted; for, from the confidential character of their communications, much interesting historical information might have been gleaned.

CHAPTER VI.

ON THE BENCH.

WITH the hope of being enabled, in the intervals of his judicial duties, to be more with his family if in a central position, and in the belief that they would be in greater security, during his absence, further from the seaboard, in February, 1778, Judge Sullivan sold his house at Biddeford to Joseph Morrill, and removed in the spring to Groton, in the county of Middlesex. He purchased the farm, in that town, well known as the Lewis Place. It was pleasantly situated, and the house, which still remains, stands on an elevation commanding the view of a most agreeable variety of fertile fields and sunny slopes. He was now much more frequently at home, endeavoring, whenever his engagements permitted, to pass the Sundays with his family. By nature cheerful and affectionate, his visits were seasons of great satisfaction to his children, who long remembered, and often spoke of, the enjoyments he contrived for them. His friends among the distinguished men of the day, his associates on the bench or in other branches of the public service, were often his companions in these periods of relaxation.

The towns of Biddeford and Pepperellborough, now Saco, were not prevented, by this change of abode, from returning him as their delegate to the Assembly for the year 1778-9. In June he was appointed, with Colonel Prescott, to consider what public business the house should

act upon during its session. He was chairman of a committee to report as to the proper disposition of prisoners detained in the jail at Northampton on the charge of high treason; and upon others, for raising eighteen hundred men, for clothing the regiments, on absentee estates, upon a resolution of Congress for the granting of pardons, and for the latter purpose was employed to draft the bill.

In August he was with his brother, then commanding on Rhode Island, and exposed to the heavy storm which so greatly interfered with their operations, and which contributed, with the untimely departure of the French fleet, to the disappointment of the expectation generally indulged that the British would be driven from Newport and the island. In consequence of this exposure he was attacked with an inflammation of the lungs, which for a time threatened to undermine his constitution.

About this same period, while in attendance on the General Court, he was seized with that dangerous and very disagreeable disorder, the small-pox. Among the different problems science fails to explain to us are the laws which govern the pestilence. Both the animal and vegetable kingdoms are subject to peculiar diseases, which come no one can tell why, and disappear apparently with as little reason. The plague, the cholera, and other kindred distempers, at different periods, and in various climes, have swept from the earth millions of human victims, and, after running their course, have become much mitigated in their virulence, or for the most part disappeared. It is impossible for us, protected as we are now by vaccination, to realize how much preceding generations were called upon to suffer from that most destructive of maladies with which Sullivan was now afflicted. Certainly no one can understand the history of our revolutionary period without taking this into the account. The evil was lessened by inoculation; but at Chamblee, in 1776, and at Valley Forge, in 1779, whole regiments were utterly prostrated

beneath this frightful malady. It was not confined to the camp, but the towns and villages throughout the country were visited, and often desolated, by this scourge.

The Legislature of Massachusetts at times adjourned, and at others removed, at its approach. Upon his seizure Judge Sullivan was kindly cared for by the Rev. Mr. Cooke, of West Cambridge. This good clergyman took him home to his house, near Menotomy pond, and, under good nursing, the disease was finally conquered. This generous act of kindness resulted in a most friendly intimacy, and, when Mr. Cooke died, Judge Sullivan administered upon his estate, and through life watched over the welfare of his family. A maiden daughter lived to an advanced age in the house at Menotomy; and here, for half a century afterwards, the descendants of James Sullivan, and many other families of Boston, were accustomed to resort in sickness or sorrow, to be under the ministrations of this excellent woman, widely known as Aunt Cooke. Her quiet, unobtrusive virtues and active benevolence have left many a grateful memory in the minds of persons still living, and earned an approval in heaven more valuable than any earthly commemoration.

In January, 1779, he was again in attendance on the Assembly; and the constant recurrence of his name on the journal for the two months following would render tedious any attempt to follow the course of his labors. It may be permitted to enumerate some of the more interesting subjects confided to his care. He was charged with the preparation of bills for the punishment of traitors, for the suppression of gambling and theatres, to prevent forestalling, and to protect ship-timber. He was appointed to procure Governor Hutchinson's letters and papers, and deposit them in the office of the secretary; and also the books and papers belonging to the probate-office for Suffolk, which Foster Hutchinson, late judge of that court, had carried away to Halifax. He was employed, with William Sever,

Artemas Ward, Robert T. Paine, John Lowell, and Nathaniel Gorham, on a committee upon the petition of De Valnais, and to address a letter to the Continental Congress upon that subject; and also, with Judge Dawes, to confer with General Gates, then commanding at Boston, on the proposed expedition to Canada.

During the autumn, Judge Sullivan was called upon to take part in a new sphere of action, having been chosen by the town of Groton its representative in the convention for framing a state constitution.

The nations of the Old World rarely had any voice in the formation of their respective frames of government. Their organic laws, where recognized, had been the growth of time and circumstance, owing their chief sanction to prescription and immemorial submission. Chartered rights were but little known, and had either been conceded by the good sense and clemency of monarchs, or wrung from their tyranny by subjects when endurance ceased to be possible. Here in America, in casting off allegiance to the mother country, the people, in the broadest sense of the term, for the first time were called upon to reorganize society from its original elements, and fortunately were most favorably circumstanced for the wise exercise of this privilege.

New Hampshire and South Carolina had already changed their forms of government, when, upon the recommendation of the Congress at Philadelphia, in May, 1776, that "the exercise of every kind of authority under the crown should be suppressed," all the other states but Massachusetts, Rhode Island and Connecticut, adopted new constitutions. In Massachusetts, the General Court of 1777—notice having been given at a previous session that suitable persons for the purpose should be returned—had framed a constitution; but this, as already stated, when submitted to the popular vote, met but little favor; five

sixths of the twelve thousand votes cast being thrown against its adoption.

Still, constantly realizing the inadequacy of the old charter system, especially now that it was bereft of its chief magistrate, to the exigencies of the times, the Legislature, not discouraged by its previous unsuccessful effort, after being first duly empowered by their constituents, called a convention, to meet at Cambridge on the first day of September. The convention chose James Bowdoin for their president; and the courts being adjourned, in order to permit the attendance of the members of the bench and bar who were delegates, Judge Sullivan was constantly present, and took a prominent part in the proceedings. He was one of the committee of five charged with the preparation of the rules for the government of the convention; and also one of the principal committee to draft the bill of rights and constitution. In order that sufficient time might be given to the great committee to prepare their report, after a few days devoted to organization and preliminary discussions, the convention adjourned to the twenty-eighth of October. The committee met at Boston, and appointed James Bowdoin, Samuel Adams, and John Adams, as the sub-committee to draw up the plan of a constitution, and afterwards John Adams alone to prepare a bill of rights.

Mr. Adams, who had returned from Europe shortly before the meeting of the convention, and who sailed again on his return thither, as minister to France, on the thirteenth of November, prepared the first draft of both instruments. More than any other man in America he had devoted himself to the study of the different theories of government. His early writings had done much to shape public opinion; and he was naturally regarded as the most safe and efficient leader in this important labor. While always loyal to liberty, and never hesitating in his faith in republican government as the best, though that best must

in some respects be imperfect, his principal aim was to constitute a government of laws, not of men; and, making the duly expressed popular will the rule of what should be deemed wise or expedient, various checks and restraints were introduced into his plan to guard against the natural infirmities to which that will is subject in its periods of excitement.

As nine of the other states had already anticipated us, and, after much deliberation, framed their constitutions, our convention had the benefit of their experience; and certainly not one of these has better stood the test of experiment than that of Massachusetts. The original drafts of Mr. Adams were amended, both in the committee and convention, and several amendments have been since made by the people; but still, in all its leading features and principles, the constitution is substantially the same, after fourscore years, as when originally planned; and two conventions, called for the purpose at different periods, have endeavored in vain to materially improve it. It served later as a guide and model in the construction of that great instrument on which the liberties of the world for many future centuries must be so greatly dependent, our federal constitution.

What share the different members of the committee, or of the convention, had in making the changes adopted, cannot be accurately known. Judge Sullivan was on various committees to which portions of the instrument were submitted for amendment. He was on that charged with organizing the Council; alone upon that providing for the filling of vacancies; on another upon the qualifications of citizens; chairman of those upon the appointment of officers in the militia, and to prepare an address to the people, which address was the joint work of himself and Samuel Adams. He was also called upon to draw several resolves connected with the business of the convention; was on other important committees, and on that entrusted with

the final revision and arrangement. The constitution was adopted, and went into operation in October, 1780; John Hancock having been chosen the first governor, and Thomas Cushing, James Bowdoin having declined, the first lieutenant-governor.

In the same year the Academy of Arts and Sciences, which had been suggested by John Adams a few years earlier, was, through the great influence and active exertions of Mr. Bowdoin, who was its first president, organized and incorporated. It consisted of about fifty members, selected from those in the commonwealth most distinguished for literature and science; and Mr. Sullivan had the honor of being among the number mentioned in the act of incorporation. He had little time for scientific research, but, during his connection with the society, which continued during a period of twenty-eight years, up to the time of his decease, he was repeatedly enabled to render valuable aid to its objects.

Soon after Hancock assumed the reins of government General Sullivan, who had been long on terms of friendly intercourse with him, wrote from Philadelphia his congratulations upon the result of the election. In the frankness of familiar correspondence, he expressed some surprise that the rival candidate, Mr. Bowdoin, who had been apparently lukewarm during the most critical period of the contest, should have received so large a vote. As frequently happened in the then disturbed state of the country, the mail was captured and carried into New York. To sow dissension among the rebels, Rivington published the letter in his Gazette, and, through the instrumentality of a friend of Mr. Bowdoin, it was republished in a Boston paper, and led to a warm controversy. Judge Sullivan, over the signature of "Theodorus," while utterly discountenancing his brother's imputation upon Bowdoin, as advanced upon imperfect knowledge, defended the propriety of the expressions used, maintaining that they gave no just grounds

of offence, and were fully justified by the freedom permitted in what was intended to be strictly private. He was somewhat severe upon the ill-nature of "Aristides," who had given the letter unnecessary currency.

A coolness had long existed between Hancock and Adams, the latter of whom was now, in 1781, chosen president of the Senate. Mr. Adams entertained ideas somewhat Utopian upon the purity of life and simplicity of manners becoming a young republic; and a series of articles, in which were inculcated his favorite virtues, and signed "Consistent Republican," was attributed to his pen. One of them reflected upon the lavish hospitality and profuse expenditure of Hancock; and in others he was reproached with distributing commissions of the peace too freely, in order to gain popularity. Judge Sullivan, as "Honest Republican," and over other signatures, defended the governor, on the ground that social entertainments were praiseworthy where consistent with the means of the host, and at that time, when people were anxious and depressed, important to the public cheerfulness. Strangers were constantly in town, to whom it was appropriate that civilities should be extended; and among these often were French officers, who, as allies engaged in fighting our battles, had especial claim to the courtesies of the chief magistrate. He even ventured the opinion that dancing, within reasonable limits, was an innocent diversion, and not to be discouraged. He expressed great regret that any estrangement had grown up between the two patriots. And as a few months later they were partially if not completely reconciled, and coöperating for public objects with himself, under the designation, applied to them by their opponents, of the triumvirate, it is not improbable that Sullivan may have contributed to bring about a renewal of their ancient friendship. His relations with both became exceedingly intimate and confidential, and continued uninterrupted while they lived.

Their political views were alike democratic far beyond what was considered judicious and safe by the more conservative, who generally rallied round Mr. Bowdoin. There seems room for conjecture that the subsequent party lines in the state owed their direction in some measure to partialities and jealousies, not so much of the chiefs as of their respective friends, growing out of the controversies of this early period.

Judge Sullivan was too earnestly interested in the working of our new institutions not to take an active part in the political movements of the day, and his pen was kept busily employed in contributing to the public prints. From periods long antecedent to the Revolution, if not from its earliest establishment in America, and on far into the present century, the newspaper press owed its chief support to volunteers. Like knights at ancient tournaments, contributors adopted devices by which they could be readily recognized by friends, but not by their foes or the public. When disguise or deception was desirable these designations, often a motto or a title, generally a signature, were occasionally assumed by different writers; but, according to the customary rules of courtesy, whoever first appropriated a signature was considered exclusively entitled, and his right respected. Our early gazettes were issued once a week; and, from the first disputes, contributors of marked ability continued the discussion of interesting questions from one number to another, and often pursued through several their connected argument. Among a people so argumentative as our fathers, discussion almost invariably led to controversy; and these marks of individuality enabled combatants to keep each other in view amidst the eager throng of writers ever ready for inky contention. As in the lists his form and bearing betrayed the cavalier, so, by their peculiarities of style, temper and sentiment, these warriors of the quill, though often able to escape detection for the moment by the

adoption of new signatures, became in time easily recognized, in spite of their studious efforts at concealment. Many of the more constant writers had a variety of these *noms de plume*, which they used according to their pleasure or their subject. In one instance, to a well-known statesman, who for half a century wielded a powerful sway over public opinion, more than twenty are attributed, which can be safely depended upon as indicating his authorship.

If parliamentary aggressions on chartered rights instantaneously provoked in every American bosom determination to resist, that resistance would have been impotent and inconclusive had it not been concentrated, controlled and directed, by the press. Those who led in the popular cause could anonymously advance in its columns opinions it would have been imprudent for them more openly to avow. The gazettes circulated widely throughout the interior of this and the other colonies; and the sons of liberty, as the patriots were called, readily recognized the source from which emanated these eloquent appeals, and gradually, by their teachings, trained for the conflict, were prepared to act with promptness and vigor when it came. Much as was effected in the cause by the Assembly, the caucus and the pulpit, it was the freedom of the press which, more than either, established and secured our national liberties. Resort was had to arbitrary measures in other colonies to place editors under some restraint; but in Massachusetts, while men of character for reason and moderation, like Otis, Quincy and Hawley, Thacher and Cooper, John and Samuel Adams, and the Warrens, and many more, were its supporters, government wisely concluded it was too powerful to disturb.

Both John and James Sullivan were zealous contributors from long before the first outbreak of hostilities. John wrote over the signature of "Watchman," and others not so well identified, and is reputed to have exerted in this way much influence in New Hampshire. We find allusion

made to James as a constant writer for the papers before the war; but, concealment then being all-important, it is not easy to decide what were his precise contributions. Throughout the struggle he industriously improved his moments of relief from judicial duties in aiding by this means to keep public spirit in the right glow for the crisis. Articles, signed "Plain Truth," "Americanus," "Zenas," "Honest Republican," "Independent Freeholder," and many more, followed in quick succession from his pen. Besides topics more immediately connected with the operations in the field, questions of finance and taxation, of government and constitution, controversies with Gordon, Samuel Adams, and Temple, occupied his attention; and his numerous communications evince his industry, ability, and ardent patriotism, while their chivalric tone and generous forbearance prove that it was not easy to ruffle his temper, or make him forgetful of what was due to a just sense of self-respect.

Visiting annually all parts of the commonwealth, his essays were not confined to the papers of the capital. While residing at Groton they appear frequently in the Worcester Spy, now the patriarch among the public prints in Massachusetts, with whose first editor, Isaiah Thomas, he was long on terms of friendly intimacy. But the most constant traces of his indefatigable pen are found in the Gazette, Independent Ledger, Continental Journal, Evening Post, and other papers of Boston, and this long before he made that place his abode. The Independent Chronicle was established in 1767, and was generally republican in creed. In this are found, with little interruption for nearly forty years, articles attributed to him upon religion, state and federal politics, jurisprudence, national and commercial law, municipal reform, the habits, manners and morals, of the people, obituaries of eminent statesmen and theologians, reviews of books, and upon many other topics. Reference will be made to some of the more important and the best

authenticated in the course of our narrative; but it would be impossible to enumerate them all, and, where doubt exists as to their authorship, it would not be prudent to advance pretensions without better proof than can be given.

We have little means of knowing, beyond the record and the dockets, what were the decisions of the Supreme Court while Sullivan was on its bench. Some few might be gleaned from a careful examination of Dane's Abridgment; but the search would be tedious. One of those which has been mentioned to his praise is too interesting in this epoch of slavery agitation to be omitted. Our account is taken mainly from a very able communication upon the subject, made in April, 1857, by Governor Washburn, the judicial historian of provincial days, to the Massachusetts Historical Society. It is too long to be introduced entire, and, besides, was intended more particularly in explanation of the brief, which fortunately has been preserved, of Levi Lincoln, one of the counsel. This decision was that by which, in three cases, involving the same points between the same parties, under verdict of jury, with the approbation of the highest court, slavery was first declared no longer to exist in Massachusetts.

When Governor Winthrop arrived in Boston harbor, in 1630, he found Maverick, the first well-authenticated slaveholder of Massachusetts, in a strong fort on Noddle's Island. The indignity offered by him, in 1639, to his slave, who had been a queen in her own country, in seeking to force her into unwilling wedlock, is well known. From that day down to the revolutionary period, the institution, though contrary to the general tenor of public sentiment, the spirit of the laws, and the wants of industrial economy, existed, and was regularly recognized. Men and women were bought and sold in the market, made subject for taxation, inventoried as property in probate. The English crown, by the marriage of Charles the Second with Catherine of

Braganza, became interested in the *asiento*, an international compact for carrying on the traffic; and though there is abundant evidence that slavery was in no way congenial to the feelings and opinions of the Puritans, the control of the mother country was too absolute to permit them to follow their own inclinations in its abolition. By province laws the owner was prohibited from manumitting his slaves without first giving security to the town that they should not become chargeable as paupers; and, towards the middle of the last century, of six thousand colored people in the province, a large proportion are believed to have been in bondage.

From the dawn of our political emancipation, in the repeal of the Stamp Act, vigorous efforts were made to divest ourselves of participation in what was so glaringly inconsistent with our pretensions to equality and freedom. In 1767 a bill for suppressing the slave-trade passed the lower branch of the Legislature, but was so far curtailed of its original fair proportions by amendments as to be abandoned by its advocates. It was well known that, had it passed in any form whatever, it would have been negatived by Governor Bernard. In 1774 another, which passed the court, on the eighth of March was laid before Governor Hutchinson; but both he and his successor, Governor Gage, under instructions from the home government, openly refused to sign any such bills. In 1769, two years before the famous case of Somerset was decided by Lord Mansfield, in that of *James vs. Lechmere*, when Attorney-General Sewall argued that the royal charter expressly declared all persons born or residing in the province to be as free as the king's subjects in Great Britain, that by the laws of England no man could be deprived of his liberty but by the judgment of his peers, and that the laws of the province to mitigate or regulate an existing evil did not authorize it, the court decided in favor of the liberty of the negro. A black man was one of the

victims of the massacre in King-street, in 1770; and the shot, which killed Major Pitcairn at Bunker's Hill, is said to have been fired by one of that color. The incompatibility of servitude with the national struggle was discussed in the Boston papers in the fall of 1776, and public attention was again directed to the subject in 1778, when the court ordered a number of slaves taken on board an English prize ship, brought into Salem, to be set at liberty. The first article of the bill of rights, attached to the constitution of 1780, declares "all men born free and equal," and was introduced, at the suggestion of John Lowell, with direct reference to a general emancipation. This declaration established no new principle, but simply recognized an existing right to freedom as an inherent condition of human nature.

Such was the state of the law and public opinion, when circumstances occurred from which originated the decision we have under consideration. Nathaniel Jennison married Miss Caldwell, who had for dowry a slave called Quork Walker. Her relatives, John and Seth Caldwell, induced Quork to leave the family of Jennison, who, regaining possession, on the thirtieth of April, 1781, beat him with the handle of a whip, and sued the Caldwells for enticing him away, laying his damages at one thousand pounds. Jennison in turn was sued by Quork, and also prosecuted criminally for the assault. The civil actions were entered in the Common Pleas for Worcester in June, 1781. In the suit for the whipping, the jury before the inferior court decided Quork to be a freeman and no slave, assessing the damages at sixty pounds, against Jennison, who carried the case up, but failed to prosecute his appeal, after the decision by the supreme bench, in the case against the Caldwells for the enticing away, had been given against him. In that suit he had recovered against them, in the Common Pleas, twenty-five pounds; but upon trial before

the Supreme Court, in September, 1781, the verdict went the other way.

The counsel for the Caldwells, in this last case, were Levi Lincoln and Caleb Strong, alike distinguished in professional and political life; for Jennison, Judge Sprague and Mr. Stearns, both sensible men and good lawyers. William Cushing, the chief justice, was not present; and the court consisted of N. P. Sargent, of Haverhill, successor of Cushing, removed in 1789 to the federal bench, David Sewall, of York, afterwards United States District Judge for Maine, and James Sullivan.

"The latter," says Governor Washburn, "was the strong man of the court. A self-made man, he had risen to the first rank of his profession, been actively engaged in the events of the Revolution, and took a prominent part in the formation of the constitution. No further evidence of his eloquence or power, as an advocate and a statesman, need be given than the rank he held among such names as Dana, Lowell, Parsons, Gore, and Dexter.

"It will be perceived that those who took part in the decision of this question were among the leading minds of the commonwealth; and it was determined, not so much by any positive language in the constitution, as by that all-pervading sense of the community that the time had come when that slavery, against which they had been so long struggling, was incompatible with their character as a free and independent state, and ought to be suppressed."

Were it more pertinent to our subject, we should be glad to present in full the able argument of Governor Lincoln; but we will merely state its more prominent points. To the argument for the owner, that his right to the slave depended upon consent, it was simply replied that, if so, the slave might surely run away; to the scriptural authority from Exodus, that a man's servant is his money, that the Jewish law was no longer in force, and had only recognized the right to enslave the heathen. How could we, he

asked, expect to triumph in our struggle with Great Britain, and become free ourselves, if, like Pharaoh and the Egyptians, we refused freedom to the slave? It had been urged that children were at birth under the power of their parents; but this applied equally to both black and white. The main defence for slavery was immemorial usage; but, inasmuch as it led to kidnapping, it was an immoral one; separating parent and child, husband and wife, it was unnatural; interfering with white labor, without advantage; and it wanted other essentials of a good general rule, as it always had been disapproved of by many, and its reason and justice disputed. In closing, he says, "Are not all mankind born in the same way? Are not their bodies clothed with the same kind of flesh? Was not the same breath of life breathed into all? We are under the same gospel dispensation, have one common Saviour, inhabit the same globe, die in the same manner; and though the white man may have his body wrapped in fine linen, and his attire may be a little more decorated, there all distinctions of man's making end. We all sleep on the same level in the dust. We shall all be raised by the sound of one common trumpet, calling to all that are in their graves, without distinction, to rise; shall be arraigned at one common bar; shall have one common Judge, be tried by one common jury, and condemned or acquitted by one common law, — the gospel, — the perfect law of liberty. This cause will then be tried, and your verdict again considered. Therefore, gentlemen of the jury, let me conjure you to give such a verdict now as will stand the test, and be approved by your minds in the last moment of your existence, and by your Judge at the last day. It will then be tried by the laws of reason and revelation. Is it not a law of nature that all men are equal and free? Is not the law of nature the law of God? Is not the law of God, then, against slavery? If there is no law of man establishing it, there is no difficulty. If there is, then the great dif-

difficulty is to determine which law you ought to obey; and, if you shall have the same ideas as I have of present, of future things, you will obey the former. The worst, then, that can happen to you for disobeying the former, is the destruction of your body; for the last, that of your soul."

It will be abundantly shown, in the sequel, that Judge Sullivan improved every opportunity to put an end to the traffic in slaves as far as it came within the legitimate action of the state. His eloquent denunciations of its barbarities in the case of *Gordon vs. Gardner*, in 1792, and in another case the same year at Portland, will be hereafter referred to. In his day, sentiments of justice and humanity with regard to the whole system were not confined to the free states. In the letter of Professor Tucker, of William and Mary's College, in Virginia, to Dr. Belknap, January twenty-fourth, 1795, asking for information as to its abandonment in Massachusetts, he says: "The introduction of slavery into this country is, at this day, considered among its greatest misfortunes by a very great majority of those who are reproached for an evil which the present generation could have no more avoided than an hereditary gout or leprosy. The malady has proceeded so far as to render it doubtful whether any specific can be found to eradicate or even to palliate the disease. Having observed, with much pleasure, that slavery has been wholly exterminated from the Massachusetts, and, being impressed with the idea that it once had existence there, I have cherished a hope that we may, from the example of our sister states, learn what methods are most likely to succeed in removing the same evils among ourselves." Washington and Jefferson are illustrious instances of opinions upon this subject then common to all intelligent men both north and south of 36° 40'. When the federal constitution was under consideration, Sullivan foresaw the contentions destined to grow out of this vexatious question, and has himself defined his position too distinctly to require much addi-

tional comment. He predicted it would give the south a control over the affairs of the country far beyond its just pretensions as measured by its population ; and used what little influence he possessed to prevent what would be a disadvantage to all. Respect for state rights he considered the best safeguard against encroachments on either side ; and his efforts to strengthen this security were in some respects successful. In his view the states were distinct nations as to all matters not delegated to the general government ; and he would as soon have thought of interfering with Mahometanism at Mecca, or despotism in Russia, as of meddling with the private legislation of the sister sovereignties where it did not clash with the rights of Massachusetts.

He confided too implicitly in the benign operations of Providence to expect perfection, or be impatient for results. He knew no higher law than the Christian precepts not to judge our brothers, or devote that science and care to the removal of their moles which should be bestowed upon beams of our own. Such, indeed, has been generally northern sentiment. The south imprisons our colored stewards on plea of self-preservation ; the north discourages the recapture of runaways, lest its cities be drenched in blood. Both violate the constitution ; and one wrong does not justify the other. When by illegal devices the south would propagate the system, to maintain an unfair ascendancy in the Union, that northerner must be craven or corrupt who does not resist by every means justified by honor. Yet, no disposition has ever existed to interfere with slavery in the states ; and none but enthusiasts can see in immediate emancipation, south of the Virginia line, aught but ruin both to white and black. Their honest zeal has frustrated their philanthropic purposes, in diverting southern individuals and legislatures from their obligations to civilize, educate and improve, the condition of their slaves. A few years will give the north a decided prepon-

derance, and this vexed question will be sent home where it belongs, no longer to disturb our national fellowship ; probably making way for some other quarrel which will, at least, have the merit of freshness.

A difficult duty devolving on the judges of the Supreme Court, of which, from the minutes and reports remaining, it would appear Sullivan bore his full, if not the principal, share, was regulating the rates of depreciation for paper money. The whole amount of continental currency issued from June twenty-second, 1775, to November, 1779, was \$241,552,780. For one dollar in gold or silver in January, 1777, \$1.05 in paper of the United States was to be received ; in January, 1778, \$3.25 ; in January, 1779, \$7.45 ; in January, 1780, \$29.34 ; in February, 1781, \$75.00. The state currency was equally depreciated. In 1780, what was known as the new emission was made by Massachusetts ; but this rapidly fell in value, and no computation could keep pace with its decline. A bushel of wheat was worth, at one period, seventy-five dollars ; coffee, four dollars a pound ; sugar, three dollars. The paper continued at an enormous discount, till the funding system of Hamilton was adopted by Congress in 1792 ; and much of the state currency was still unredeemed in 1808.

Before closing this account of the period Judge Sullivan passed upon the bench, it may not be uninteresting to record some incidents in the life of his elder brother, Daniel, who fell at this time a victim to the barbarous cruelties, the privations, famine and disease, of the British prison-ships at New York, called the Jersey hulks. He had established himself, about 1765, on the upper end of Frenchman's Bay, at a place now flourishing as the town of Sullivan, and, engaging in the manufacture of lumber, erected two saw-mills. When the revolutionary war broke out the machinery was removed, and the buildings burnt ; a visit from the enemy being apprehended, as Daniel, in common with his other brothers, sided warmly with the patriots. He held

a commission as a captain of minute-men, and was present with his company at the siege of Castine, in 1779, in which the militia of the neighborhood acted in concert with the troops under Solomon Lovell, and the fleet commanded by Richard Saltonstall. The attempt on Castine not proving successful, Captain Sullivan returned home with his men, keeping them always in readiness for action. His zeal and activity made him a marked man to the English and the Tories of the vicinity, who had several times ineffectually endeavored to capture him. These attempts had failed, in consequence of the vigilance observed by the patriots, till one fatal night in February, 1781, when there was reason to suppose, from the severity of the weather, that no one would venture abroad, an English ship, the *Allegiance*, anchored below the town, and landed a large force of sailors and marines. The house was silently invested, and Captain Sullivan, aroused from his slumbers, found his bed surrounded by armed men. He was hurried to the boat, and his dwelling fired so suddenly that the children were with difficulty saved by their mother and the hired man living in the family. Taken to Castine, his liberty and further protection from harm were tendered him on condition he took the oath of allegiance to the king. Rejecting these proposals, he was carried prisoner to New York, and confined in that dreadful hulk, the *Jersey* prison-ship. Here the pestilence, engendered by confinement and starvation, and the tender mercies of Provost Cunningham, did their work, and he died in April, 1782.

General Sullivan, after his successful expedition into the western country, in the summer of 1779, had found his health so far impaired by the exposures and hardships of five years, incessant military service, as to feel compelled to retire from the army. He received, upon retiring, the thanks of Congress, and the most generous testimonials of affection and esteem from General Washington. He was, immediately after his resignation, sent to Congress from

New Hampshire. His constant employment upon the most delicate and responsible duties, as shown by its journal, evinces the respect of that body for his character, ability and public services. He was for the rest of his life, with but slight intervals, in distinguished positions of public duty in New Hampshire. At the commencement of the university at Cambridge following his withdrawal from the army, honorary degrees were bestowed both on him and his brother James.

CHAPTER VII.

REMOVAL TO BOSTON.

UPON the organization of the government under the state constitution, in the fall of 1780, Governor Hancock issued his proclamation from the ancient Province House, then still remaining the head-quarters of the executive, that all persons holding commissions under the authorities superseded should continue in the exercise of their respective functions; and this was further provided for by statutes.

It became necessary, by the adoption of the new system, to revise the laws in use in the commonwealth; "to select, abridge, alter and digest them, so that they should be accommodated to the new government." The Supreme Court, then consisting of Cushing, Sargent, Sewall and Sullivan, in connection with Robert T. Paine, the attorney-general, James Bowdoin and John Pickering, were appointed upon a commission for this purpose. They were also requested to prepare bills for the due observation of the Sabbath, and for the prevention of drunkenness and profanity. What portions of this task were allotted to Sullivan is not particularly known. In a letter of November twenty-sixth, 1781, Judge David Sewall writes Theophilus Parsons: "There has been some talk in the committee of revision respecting a court-merchant, or some speedy mode for foreigners that may trade hither to recover their demands; perhaps a recognizance before some respectable person or persons in the seaports; and, on failure

of paying the money at the day, execution to issue in nature of a distress. But this is in Judge Sullivan's department."

From time to time the commissioners reported to the General Court a great number of bills, which, after debate and some amendments in the different houses, were enacted. In February, 1782, Judge Sullivan is mentioned in the Senate journal as reporting to that body several bills, the result of their labors. Some of them were held long under advisement in the Legislature; and many of the statutes passed in succeeding years, reorganizing our whole system of jurisprudence, were prepared while he was a member of this commission.

Among the earliest subjects taken into consideration were the necessary changes in the legal tribunals. Bills defining, and in some particulars enlarging, the powers of the Supreme Judicial Court, and creating Courts of Common Pleas and County Sessions, were passed in July, 1782.

The judges had good reason to consider their services, which were very arduous, inadequately recompensed, three hundred pounds annually being all that was allowed them. The general impoverishment of the country, exhausted by war and long shut out from its ancient pursuits of trade and industry, and the large amounts required by the general Congress to meet its burthens and sustain the public credit, rendered all-important the most rigid economy in state expenditures. There was, consequently, but little ground for hope that any considerable addition would be made to the judicial salaries. These were paid, moreover, in depreciated paper, which, under the heavy issues and diminishing prospects of redemption, was ceasing to be current, and rapidly becoming worthless. The judges could not, without encroaching largely on their private resources, provide for the subsistence of their families, or meet unavoidable expenses attendant on the performance of their duties. These expenses were the more considera-

ble from the constant journeys they were compelled to make in order to hold their courts in the different counties, both bench and bar travelling in the saddle or their own private vehicles, there being at that period no public conveyances. In February, 1782, the judges addressed a memorial to the General Court, representing the insufficiency of the existing allowances, and praying that some additional provision might be made for their support. Resolves were passed authorizing the treasurer to issue notes on interest, agreeably to an act passed in the May preceding, to make good any deficiency growing out of the intermediate depreciation; and a committee appointed to take into consideration the salaries established by law for the justices, and report whether, considering the high prices of the necessaries of life and the expenses of travelling, they were such as the constitution required, and, if not, what proper measures were to be taken. From the feeling prevailing throughout the country that the officers of government should bear their share of the general distress, it soon appeared that no adequate addition would be made to the compensation of the judges; and Judge Sullivan, finding the amount decided upon altogether unequal to the increasing demands upon him, sent his resignation to the governor, and Increase Sumner was shortly afterwards appointed in his place. His letter of resignation to Governor Hancock is as follows:

“When it became necessary for the people of America to take arms against Great Britain, the exercise of civil government was held an indispensable requisite, both to control and supply the military power. I then had the honor of being appointed one of the judges of the Superior Court. The idea of danger, at that time, was so strongly associated with the office that it could not fail of rendering it highly honorable.

“When the new form of government took place, I was reappointed by your excellency; and, by being one of the

first judges of the Supreme Judicial Court of Massachusetts, I was loaded with all the honors that my utmost ambition could wish. How well I have executed the trust my countrymen must determine; I have only to say, that I acknowledge, with gratitude to Him, in whose hands are the hearts of all men, that it hath been owing to His goodness alone that I have been so far preserved from partiality and corruption in my office, that a review of my past conduct as a judge gives me infinitely more happiness than honors and emoluments can do; and what still sweetens the reflection is that * * * *

I have fully paid in proportion to what Heaven hath bestowed upon me. Nor have I ever withheld my property from the calls of public distress.

"I rejoice to see my country now nearly encircled in the arms of safety; and am very sure that my going into private life, in the present state of affairs, can never be construed into a disregard to the common cause. Duty hath hitherto kept me in office, and a sense of duty to myself and family, by no means inconsistent with what I owe to the public, as strongly urges me to private life.

"Wherefore, I do now hereby resign to your excellency all the powers and authorities which I hold as a judge of the Supreme Judicial Court of the commonwealth, and beg leave only to add, that I am, with great veneration to your person and devotedness to my country, your excellency's most obedient, humble servant."

On the fifth of April he writes to a friend: "I yesterday received your favor of the eighteenth of March, and am much obliged by your favorable opinion of my past public services. I find full evidence, in the obvious sincerity of your letter, of that friendship which has given me great happiness since the commencement of the present troubles. There is no person in the state who can be more uneasy at my resigning the place I lately held than myself.

I love public life. There is a certain activity and strong impulse to business in my natural make that prompts me to it. An idle hour is a great burden; and, if I could form a character, which I most freely own I ardently wish to do, there is no place where I could, as far as I can judge for myself, do it so well as on the bench. But, my dear sir, I begin now to be advanced in age. I have not such a quantity of property as the business I have done, in private or public life, might entitle me to. These times have worn hard upon the little I possessed before the war. Until the last year I have not, since the year 1776, had as much of the government as would pay my travelling expenses, including horse-hire, and for those articles which were unnecessary at home, but absolutely indispensable while going the circuit. This has involved me in a debt that cannot be paid with three hundred a year, for I find that the three hundred is not quite equal to two. Those whom I thought to be the active and leading members of the Assembly promised to do us justice, or I should have quitted years before. But when the matter was thrown upon paper, the bugbear of ill-precedents prevented anything from being done. Thus circumstanced, with a great and increasing family, I thought it became my duty to take care of myself, and feel great gratitude to Heaven to find it within my power. I have, however, suffered some mortification from the change of situation. But where duty leads, I am determined to follow. As to going to Congress, could I conceive it to be my duty to go, I should be very fond of it. Please to give my compliments to your lady. My best wishes are attending your family. My duty and love to the Reverend Mr. Williams. Should I never eat another *clam* with him, I shall ever esteem him as the first of his cloth."

In a letter to his son, written a quarter of a century later, in condolence upon some then recent affliction, he explains, as follows, the motives which led him to this step: "I was, at a very early stage of my life, elevated to the

first councils of my country, and exalted to the first seat of justice. The paper-money system reduced me to the necessity of abandoning the idea of giving you and your brothers an education which would bring you into the world under the first advantages, or to descend from the bench to the bar, enduring again the toils of a professional life. There was not one moment's hesitation in choosing the latter. How could I hesitate when I glanced my eye upon my beloved family?"

What little accumulation his earlier practice had permitted had been well-nigh exhausted in the public service. He considered it due to his family, while still in the vigor of manhood, and he had not as yet reached his thirty-eighth year, to devote his energies to provide for their comfortable maintenance, and to secure to his children what he the more valued, perhaps, from not having himself enjoyed it, the benefit of a liberal education. With this view he determined to resume the practice of his profession, and establish himself in the capital. He opened an office in Boston in the spring; but, not immediately finding a suitable residence in town, he removed his family, now increased by Richard and Bant, born in Groton, to its neighborhood, in that part of West Cambridge called Menotomy. They occupied, for the summer, a long white house on the west side of the road leading to Lexington. It lay on the line of the British retreat from that place eight years before, and the shutters of nearly every window in the building were still perforated with holes made by the bullets of the retreating troops, or their assailants.

One afternoon, in the course of the summer, a well-worn phaeton, drawn by a pair of sturdy horses, was seen moving slowly along the road. The occupant, in half-military attire and three-cornered hat, appeared earnestly gazing at the house as he passed, as if in search of some one to direct his way. James Sullivan, observing the traveller from his window, recognized his brother John, and, rushing out,

affectionately embraced him. They spent a few days together in brotherly intercourse, when the general proceeded on his journey to Philadelphia. After leaving the army, he had been for a year or two in Congress, as delegate from New Hampshire, and, resuming his practice at the bar, had become sufficiently distinguished to be employed not only in his own state, but to argue causes in other parts of the country. He soon after was appointed attorney-general of New Hampshire; an office held for more than twenty years by his son George, and at the present time by his grandson.

The month following the resignation of his seat on the bench, Judge Sullivan was elected, with John Lowell, a delegate to the Continental Congress at Philadelphia. Well knowing there were many, equally competent to do good service, who were more eager for the honor, and better able to bear the expense, he declined. Soon after his return the following year to the General Court, he was again elected, with Gerry, Dalton, Partridge and Danielson, by a vote of one hundred and thirteen out of one hundred and fifty-three. The same motives which had induced his leaving the bench were still equally conclusive against congressional life; and the pressure of professional engagements rendering inexpedient any protracted absence from the state, he turned a deaf ear to the call of ambition, and continued resolute in the path he conceived marked out by his duty. Eight months after his election he sent in his resignation, and Francis Dana, afterwards chief justice, was elected in his stead.

Towards the end of 1784 he was present for a few weeks at the Congress, then sitting at Trenton, as commissioner for prosecuting the claim of Massachusetts to the western lands. Elkanah Watson says that on the third of December he embarked on board a sloop packet for New York, with him, Elbridge Gerry and Rufus King, on their way to Congress. "I record the fact," he says, "to exhibit a

striking illustration of the mode and facilities of travelling existing at that period upon so important an avenue as the direct route between Boston and New York. We were driven through Long Island Sound by a furious gale; the shores on both sides appeared in an advanced stage of improvement, mingled with tracts of unreclaimed forest-land. We passed Hurl Gate with considerable exposure. A short canal on Long Island, with a lock, would readily obviate this dangerous navigation."

On the fourth of July, 1782, Samuel Adams, Nathaniel Gorham, William Phillips, James Sullivan, George Cabot, Stephen Higginson and Leonard Jarvis, were appointed, by resolve, to consider "what measures were to be taken to reduce the expenses of government, show the best method of supplying the public treasury, and reforming the state of the finances." They were requested to sit when they could conveniently, and report at the next sitting of the General Court. Their report, made in October, is at great length, and enters fully into the financial condition of the state. A copy exists among the papers of Samuel Adams, who, as chairman of the committee, was, no doubt, the principal draftsman. But as Judge Sullivan, in the course of his correspondence with Mr. Temple, ascribes his delay in responding to his having been engaged in its preparation, in this labor, as in many others, he appears to have coöperated with the veteran patriot. It recommends the establishment of customs and imposts as the sole resource remaining for sustaining public credit and meeting the public obligations.

No longer in official employment, Sullivan felt at liberty to follow the general example in efforts to cripple the British trade along the coast, and engaged in the war on his own account. Not possessing any efficient fleet, the only mode in which the Americans could annoy their adversaries upon the ocean was by privateering. Numberless vessels, fitted out from Boston, Salem, and other New England

sea-ports, intercepted transports carrying supplies to New York, or, venturing further from home, brought back as prizes English merchantmen. There being no immediate prospect of pacification, on the fourth of July, 1782, Judge Sullivan and Perez Morton procured a letter of marque for the sloop "Fair Trader," Captain Geyer, with four guns and fourteen men, to cruise against the enemy. What success attended their enterprise does not appear; but, six months later, the arrival of intelligence that preliminaries of peace had been signed at Paris brought it to a premature termination.

A subject of much controversy, originating somewhat earlier, and only subsiding in the year that followed, from the widely extended interest in the questions involved, attracted at this period the public attention. It was much discussed in the public prints, and made the frequent topic of communication from the executive, and of debate in the Legislature. It reflects no reproach upon any one; and while, from the distinguished position of the parties, all of whom appear to have been actuated by just and honorable motives, and the character of the allegations, it forms a part of the history of the times, it is too closely connected with the subject of this memoir to be wholly passed over in silence.

Judge Sullivan, from the commencement of the war, had been constantly called upon, in all the legislatures of which he was a member, to frame the acts passed from time to time against refugees and tories. All who had taken an active lead in the direction of the Revolution were especially interested in its success both on public and private considerations. In adopting the Declaration of Independence, the people, as well as those who represented them in affixing their signatures to that memorable instrument, felt that they had pledged to each other their lives, their fortunes and their sacred honor, for its support. Not only those in official station, but all possessed of influence, considered

themselves under obligation to prevent reaction, and to counteract the untiring efforts of its secret enemies. The citizens were frequently called upon to be watchful, and to denounce all such persons as there was reason to believe entertained projects inimical to American independence. Before the surrender of Cornwallis, at Yorktown, in October, 1781, there had been little ground to hope we could compel Great Britain, without much greater efforts than any we were making, to abandon her claim to sovereignty over the colonies. The southern campaign had been a series of disasters, and the heroic efforts and able generalship of Greene, Sumpter and Marion, had proved long unavailing against the superior discipline and numbers of the enemy. Even after Yorktown, no disposition was manifested by the mother country to give up the contest; and, as late as the autumn of 1782, the arrivals from Europe brought tidings of her intention to make the most vigorous preparations for the ensuing campaign. There was much in our condition for her encouragement. Congress was paralyzed in its energies by sectional and party dissensions, and the country exhausted both in resources and credit by the immense exertions already made.

While the war lasted, and we continued exposed to its vicissitudes, prudence counselled the utmost vigilance to prevent any one reasonably to be suspected of loyalty to Great Britain from being harbored within our limits. There was a strong feeling abroad among the people, if the press of the time correctly reflects the public sentiment, that the laws in this particular should be rigidly enforced. Many persons were anxious to return, who had never taken part or shown the slightest sympathy with the enemy; but, on the ground that they had absented themselves during the earlier part of the Revolution, their names were continued on the list of the proscribed, and their estates sequestered. Had exceptions been made in favor of individuals possessing powerful and influential friends, so wide a departure from the

great principle of equality before the law for which we were contending would have justly created discontent.

Any reasonable expectation of success, moreover, mainly depended upon our alliance with France; and our good understanding with that power would have been endangered had she ground to suspect secret negotiations on our part with the enemy, or the toleration among us of persons supposed to enjoy the confidence of the British ministry.

Mr. John Temple, the friend of Franklin, Samuel Adams, and other distinguished patriots, had been regarded, from the commencement of the disputes, sincerely attached to the cause of the colonies. He had held, before the Revolution, a very lucrative office, of which he had been deprived by the government on the ground of supposed disaffection. For half a century his family had been established in America, and he had married the daughter of James Bowdoin, one of the stanchest and most influential of the patriots. Mr. Bowdoin had been very constantly in the Council or other branches of the public service; had presided over the convention for forming the state constitution; had been elected lieutenant-governor, an office he had declined; and, from his cultivation and love of science, had been chosen president of the American Academy of Arts and Sciences. Mr. Temple was connected with some of the most wealthy and powerful families in England, and was the somewhat remote but still possible heir of an ancient baronetcy, to which, in fact, he succeeded a few years afterwards. He left this country long before the war, and, returning in the fall of 1778, passed the winter in America, associating with the leading patriots on terms of the most intimate friendship and confidence. He sailed the following spring for Europe, and, after remaining more than two years in England, arrived, in the month of October, 1781, again in Boston. This long residence in the country of the enemy of itself would have reasonably

warranted some distrust of the probable influence he might exert over the minds of his friends ; but there were, moreover, passages in his correspondence which led to strong doubts whether, indignant as he might have been originally at the arbitrary measures of Parliament, he had ever been disposed to renounce his allegiance to the British crown. It was also currently reported that he came clothed with power to enter into secret negotiations with individuals, the ministry not yet recognizing Congress as a government.

His appearance in Boston, under these circumstances, could not fail to excite suspicion and much displeasure. The government summoned him before the Council, and was not satisfied with his disclaimers. Judge Sullivan, then at Groton, on the twenty-fourth of October wrote Mr. Hancock a letter, which, under advice of Council, the governor sent with a message to the General Court, as he did likewise another, from the president of the Congress, on the same subject, written some months later. The friends of Mr. Temple, numerous and powerful, in the faith that his sentiments and intentions were misrepresented, naturally rallied to his defence. The question as to his loyalty, and the proper measures to be taken by the government, continued for a long period under consideration in the Council, was discussed with much warmth and temper in both branches of the Legislature, and fills a large space on their journals. It occasionally occupied the debates for successive days, and, having aroused a spirit of contention, survived the war. Judge Sullivan, having made the allegations, was regarded virtually as the prosecutor ; and, although the impeachment was on public grounds, and there could be no doubt of the perfect uprightness of his motives, the friends of Mr. Temple used all their influence, and every honorable expedient of political warfare, to defeat the prosecution. Various plans were suggested for the disposal of the question. It was

proposed to submit it to the judges; it was referred to the attorney-general; and a project for the hearing of the parties before both branches received a large vote. Mr. Temple was placed under heavy bonds not to convey intelligence to the enemy, or do or say anything prejudicial to the American cause.

While the issues for which we were struggling could be jeopardized by the presence among us of one reasonably suspected to be a secret representative of the British cabinet, Judge Sullivan, careless of reproach and indifferent to hostility, fearlessly persevered in the course the public interest demanded. Angry denunciations on the part of his assailants provoked neither retaliation nor resentment; and, confident that he was right, and was sustained by public sentiment, his resolution to accomplish an important national object never degenerated into personal bitterness. Governor Hancock had from the first taken the ground that Mr. Temple, merely as a subject of Great Britain,—and there was certainly as much reason so to consider him as in the case of many other loyalists still in exile,—ought not to remain here while we were at war with his country; and the votes, where recorded, show that the opinions of the court coincided with the views of the governor.

This claim of Mr. Temple to the rights and privileges of an American patriot called into exercise many able pens. The numerous friends of his father-in-law, Mr. Bowdoin, were zealous in his behalf, and among them Dr. Gordon, of Roxbury, the historian of the war. Articles, signed "Recollection," "Massachusettensis," "Sully Americanus," appeared with great frequency for many months, vehement in invective, unsparing in abuse. As neither in the character nor conduct of Judge Sullivan could there be found much to defame, these attacks, apart from the strong epithets in which his enemies in the warmth of controversy permitted themselves to indulge, had little to disturb. He had powerful coadjutors, who generously rallied to his

defence; nor was he of a nature to be passive himself under reproach. The following selection from the numberless columns occupied with this war of words, which was either written by himself or by one of his friends, is taken from the Evening Post of the twenty-eighth of September, 1782:

"A writer in your last paper calls on James Sullivan to know what he has not gained by the war. That gentleman does not complain that he has lost anything. He never had an office under the crown, and therefore could not lose one; nor, indeed, does he wish to have an office anywhere, as he can supply his wants without it. But he has gained what is very dear to him by the war. He has been faithful to his country's councils, has risked his life in defence of her liberties, has held important offices in the day of her distress and danger, and, by acting boldly and faithfully in them, has gained that esteem and confidence of a numerous people that cannot be shaken by the scribblings of 'Recollection.' He has gained still more by the war; he has gained the glorious character of an independent freeman, entitled to all the blessings of a constitution which he had a very considerable share in forming."

Upon the recognition of independence, cause for jealousy being removed, with it disappeared, on both sides, all feeling of animosity, and the disposition to conciliate seems to have been mutual. When recurring to the affair some few years afterwards, Judge Sullivan says, in a letter to a friend: "When I wrote you on the subject of Mr. Temple, I had not seen, and did not expect to see, in the Gazette a particular account of his admission and recognition as consul-general of Great Britain. I have since seen it, and it was quite agreeable to my mind. I am so far from keeping up any unpleasant feeling with him or his relatives, although I entirely approve my first conduct, that I am on the best terms with Governor Bowdoin. He

has done me the honor to dine with me, and I have frequently dined with him." It is a curious circumstance connected with this affair that the descendants of a marriage between the youngest son of Judge Sullivan and a granddaughter of Mr. Temple inherit both sides of the quarrel.

The question, all-important while it lasted, after the peace soon subsided, and is here mentioned only as an illustration of Judge Sullivan's readiness to hazard popularity in following the dictates of public duty. If not influencing the subsequent party divisions between the respective friends of the two great rivals for the executive chair of Massachusetts, Hancock and Bowdoin, it may serve to explain the warmth of feeling which colored the contest.

Though lenity to tories, who preferred colonial subjection to independence, while they were capable of working harm to the cause, was considered disloyalty to liberty, still, when the contest was over, and no further mischief was to be feared from their influence, men of just and moderate sentiments were easily persuaded to forgive. Judge Sullivan was often actively engaged in restoring worthy refugees to citizenship; and among others, for whom his efforts were successful, were John Gardiner and Thomas Brattle.

William Brattle, the son of an eminent clergyman long settled at Cambridge, and who died there in 1717, was a divine, a lawyer, and a physician, and, at an early period of the dispute, gained popularity by his zealous opposition to the arbitrary measures of Parliament. Hutchinson and Sewall, as well as Trowbridge, long his rival at the bar, well understood his character, and succeeded in converting him to their views. This apostasy to the cause of liberty was rewarded by the commission of brigadier-general in the militia, then, in time of peace, an anomalous rank created for this special purpose. His son, Major Thomas Brattle, graduated at Cambridge in 1760-3, and, from his

cultivation and love of learning, received later the degree of Master of Arts at Yale and at Nassau. He entered into commercial life in Boston, and, at the commencement of the war, preferring to remain neutral, went to Europe, carrying with him, however, ample testimonials of his patriotism from the committee of inspection and correspondence. After travelling over Great Britain and the continent he settled in London, and devoted himself with great zeal to the relief of our prisoners taken at sea, or sent over from America. His generous exertions in their behalf attracted the attention of benevolent individuals in England, and enlisted their sympathies also in the same direction. When, in 1778, he returned to America, he resided for a time in Rhode Island, and some signal acts of courtesy and kindness rendered to the French troops stationed in that colony were acknowledged by King Louis in a letter written, through his order, by the French minister to Mr. Brattle.

He was anxious to return to Boston; but his neutral course was not acceptable to our people, who considered all against them who did not support the Revolution actively and without reserve. At the close of the war he petitioned for permission to return; but his efforts to overcome the prejudice created by his long absence and residence in England were long without success. When Judge Sullivan learned the merits of the case he entered into it with his usual ardor, and presented to the house Major Brattle's claims to their favorable consideration so effectually that his name was taken from the list of the proscribed, and his property restored. Shortly afterwards Major Brattle, previously unknown to him, entered his office, and, expressing his sense of obligation by the warmest acknowledgments, begged leave to share with him the estates which, through his means, had been saved from confiscation. As the services rendered were on public grounds, and in his capacity as member of the house,

this was of course out of the question; but their acquaintance, thus auspiciously commencing, ripened into the most intimate friendship.

Major Brattle, in possession of an ample fortune, highly educated, and member of many learned and charitable societies, by his urbanity and generous hospitality, made his home, near the site of what is now the Brattle House, at Cambridge, an agreeable resort for friends and strangers. He was a bachelor, and liberally devoted his ample means to the public benefit. The pursuit of scientific horticulture occupied much of his attention; and his beautiful grounds and gardens, stocked with the finest varieties of fruits and flowers, were open to all who would not abuse his liberality. The roads, walks and public buildings, in his neighborhood, were greatly improved by his care; and one of his latest efforts was the erection of a bathing-house on the Charles River for the benefit of the students, many of whom had been victims of its rapid tide and dangerous eddies. His humanity and charity gave employment to labor, cordials to the sick, and relief to the distressed; and his whole life fully justified the favorable tribute paid him, when he left London, by those who appreciated his noble exertions for the American prisoners, in presenting him with the portrait of the Man of Ross. Judge Sullivan was a frequent visitor at this hospitable abode, and his family ever remembered with much satisfaction the days they had passed in the agreeable society of this warm-hearted old bachelor. When he died, in 1801, Judge Sullivan contributed to the *Columbian Centinel* an obituary notice, which will be found in the eighth volume of the *Massachusetts Historical Collections*, page eighty-four.

In the autumn, the house next east of the Coolidge Block, on Bowdoin Square, having been purchased, the family removed into Boston. At that period the square was surrounded by gardens, or by open fields. Dr. Bulfinch, Deacon Newell, long one of the selectmen of Bos-

ton, Mr. Alleyne Otis, Mr. Carnes, and Mr. Frazier, occupied the houses. Fine trees and abundant vegetation made the place cheerful, and few situations in the town were more attractive. The neighborhood was social and given to hospitality ; and the intercourse, if partaking somewhat of the formal and ceremonious character of the day, was refined and intellectual.

Early in 1783 the preliminaries of peace, agreed upon towards the close of the preceding year, were publicly announced. After the privations and anxieties of the war, there was a general sense of relief at its termination ; and sentiments of satisfaction and joy pervaded the community. Our national independence, the grand object of eight years' struggle, had been accomplished. The most extravagant hopes were entertained, by the unreflecting, of the immediate and boundless prosperity to follow, in recompense for so much cost and danger. The steady progress of events lags far behind anticipation, and much disappointment and distress, in various forms, were to be experienced before these dreams were destined to be realized. Still, for the moment, all was exultation, present happiness and unquestioning faith in the future ; and the prudent cared not to cloud the general enthusiasm by gloomy forebodings. The experiment about to be tried was, indeed, to prove successful ; and the numberless blessings flowing from our free institutions have already more than justified the most sanguine expectations. But our national existence, germinating with the landing of the pilgrims, and baptized in all the blood from Lexington to Yorktown, was to be gradual in its growth, and not to be measured by the results at any one period. Proved and hardened by foreign wars and internal contentions, centuries must roll on to perfect its being and develop its greatness.

If not absolutely meeting the hopes and wishes of the less reasonable, the prosperity consequent on peace soon made itself distinctly perceptible. In the great towns

along the seaboard the elastic energies of commerce rapidly recovered from their long prostration, and wealth flowed in through various channels, enriching the people. Wealth brought with it a taste for luxury and conviviality, and Boston, the commercial metropolis of New England, was soon famed for its gay and brilliant hospitalities. From his long public services and judicial dignity, as also from his genial disposition, ready wit and active sympathies, Judge Sullivan possessed a large and constantly increasing circle of friends and intimates, and was received with the greatest kindness and cordiality in his adopted home. He was too fully alive, however, to the importance of his labors to the future welfare of his family to allow any pleasures to divert him from his principal object; and, with determined resolution and singleness of purpose, he devoted all his energies to deserve and secure professional success and employment.

His laudable efforts were not without fruit. Clients poured in, and his rapidly increasing practice speedily removed every anxiety as to the future. His popularity kept pace with his professional success, and testimonials were not wanting to show the place that he occupied in the esteem of his fellow-citizens. In December, a town-meeting having been called in Faneuil Hall to concert measures for testifying the respect of the citizens to Baron Viosmenil, a French general then in Boston, Judge Sullivan was appointed, with Samuel Barrell, to deliver that officer an address expressive of our gratitude to his country for the aid generously extended to America during the war. Both the address and reply are to be found in the journals of the day.

In laying aside the robes of office, not then as concerned the judges a figurative expression, he could not as easily divest himself of the feeling that his first obligation was to his country, and that whatever powers he possessed for promoting the public welfare should be consecrated to her

service. The general debt of the continent, growing out of the contest with Great Britain, which, when reduced to the adopted standard, still exceeded forty-two millions of dollars, as compared with the wealth and population of the country was immense, and every effort was made in Massachusetts to meet its share of the amount called for by Congress. The people could not well endure any further direct taxation than had been already imposed, but our foreign trade was increasing and returning large profits. Persuasion was necessary to reconcile the people to this mode of raising a revenue, inseparably associated in the public mind with the tyrannical measures of Parliament leading to separation, and Judge Sullivan used his influence with effect for this object.

But, while very willing that the state should levy imposts, by its own officers, for the general benefit, he realized the full danger of conceding to Congress, informally or by implication, powers which might be abused, or serve as a precedent for their arbitrary extension. In a long and able article upon the subject, signed "Grotius," and published in February in the Boston Gazette, he presented his views to the public; and, while demonstrating the propriety and importance of the state legislatures, laying a reasonable impost on commerce, he deprecated any participation of the federal government in the actual levy. In the June following, in a long series of letters, addressed to a gentleman in Philadelphia, and signed "Honest Republican," he endeavored to show that the tax proposed would yield far more than was anticipated, and urged that the rate should be lowered, and the period fixed at fifteen instead of twenty-five years. Commissioners of the New England states and from New York met at Hartford shortly afterwards to fix the rates, and acts were passed to carry the plan into execution.

When the spring elections came on, Judge Sullivan was chosen moderator of the town-meeting, and returned to the house as one of its representatives. The preceding

spring he had opened his office in Boston, and, although he had not actually established his family in town before the fall, he had considered himself as one of its citizens. The constitution required that no one should be eligible as a member of the house who had not been an inhabitant of the place represented for the year preceding his election. But, as intention had ever been regarded the most decisive test of domicile, he had no scruple about taking his seat. Soon after the opening of the Court, in June, his right was challenged by Mr. Clarke, of Roxbury; but the house, constitutionally the judge of the qualification of its members, decided in his favor, and he remained in the Assembly. This step was censured by the opposition, and was somewhat discussed in the public prints. It was not, perhaps, his own best policy, as it somewhat hazarded his popularity; but there were many important public reasons why he should continue a member, and justice to his constituents demanded that he should abide by the decision of the properly constituted tribunal.

His election to Congress, in 1783, did not vacate his seat in the Assembly, and his labors in the house for the year were constant and varied. Of the greater part of the numerous committees, more than forty in all, and these among the most important, of which he was a member, he acted as chairman. On the first of July he was the first named on that to prepare an address to Congress on the commutation of the half-pay which had been promised to the officers of the revolutionary army, and which, from an apprehension that it might create a privileged class possessing undue influence in the community, it was thought best to compromise for a larger payment for a shorter period. The opening message of the governor had communicated official tidings of peace, and Mr. Sullivan moved that a committee should be appointed to report "whether the Legislature should meet at some place of public worship on the fourth of July, to offer up thanks to

the Ruler of all events for his goodness in establishing the independence of the United States and blessing them with peace, and also to report any other measure they should think proper for celebrating the anniversary of American Independence." The committee, consisting of himself, Judge Dawes and Mr. Phillips, reported, verbally, that Dr. Cooper would officiate at the Brattle-street meeting-house.

The celebration of the fourth of July, as our great national festival, did not originate here in Massachusetts, however, with that vote. After the Boston massacre, in 1770, it had been usual to observe the fifth of March by an oration and other appropriate solemnities, quite as much for the purpose of keeping alive the feeling of resentment against the British government as to pay tribute to the memory of the victims. On the last preceding occasion of its occurrence, at a meeting of the citizens at Faneuil Hall to hear the appointed address of Dr. Welsh, it was concluded that the reason for commemorating the day then had ceased, and proposed that for the future the date of the Declaration of Independence should be celebrated as our great anniversary. James Otis—his last public appearance, for he was killed by lightning in the following May—presided over this meeting. At another, at the same place, to make arrangements for the July celebration, Samuel Adams was moderator; and when the day, ever afterwards to be kept sacred, came, the citizens assembled again at the Cradle of Liberty, and James Sullivan, called upon to preside, announced, as the report of the committee of arrangements, that Dr. John Warren would deliver an oration at the Brattle-street church as soon as the General Court had ended its morning session.

From his appointment on the finance committee, in the summer of 1782, he had been unremitting in his efforts, through the public prints and in debate, to advocate the supply of the treasury for the payment of the continental

and state debt by excise duties on imports. A bill for this purpose was passed in July ; but, the system being a new one, the law was found in some respects inadequate to the object, and gave much dissatisfaction. Another in addition to the original act was prepared, and, after long debate and various proposed amendments, one of which was that the act should not take effect before a like system was adopted by all the other states, and another that no portion of the amount realized should be appropriated to the army, was passed through the strenuous exertions of Mr. Sullivan, but by a small vote.

With Theodore Sedgwick and Nathan Dane he drafted the bankruptcy bill, and that for regulating weights and measures, and was chairman of this and other committees for the revision of the laws for the sale of the estates of infants and persons *non compos*, and also for the disposition of the property of persons dying intestate. The public mind was still much exercised on the subject of refugees seeking to return, and he was appointed to define the rights of citizenship, and consider what privileges should be allowed to resident aliens. He was on a committee for impeaching two justices for admitting tories to reside in the state contrary to law ; but was one of the protesters who secured the right of trial by jury to persons whose citizenship was put in question. The statement of our claim to lands west of the Hudson, and the preparation of a resolve for ceding that portion between the present western boundary of New York and the Southern or Pacific Ocean to the United States, were under his consideration as chairman. The preservation of the public lands and pine timber at the eastward, the statement of the funds of Harvard College, the suitable establishment of the officers of government, the ways and means, the disturbances at Philadelphia, and the charter of the Massachusetts Bank, the first bank in the commonwealth, and the second state bank on the continent, were all under his charge as chairman.

The treaty of peace provided for the restoration of estates sequestered, but not sold, and for the payment of debts to British subjects; and he was on a joint committee of ten, of which Mr. Samuel Adams was chairman, to devise necessary measures for the first object, and, with Judge Dawes and Thomas Clarke, to revise the laws and make them conformable to the treaty in all other respects.

In May, Sullivan was again elected by the citizens of Boston to represent them in the state Legislature, and placed on a committee, consisting of Samuel Adams, Joseph Barrell, Stephen Higginson, Charles Jarvis, William Tudor, Robert Treat Paine, Perez Morton, Samuel Breck, Benjamin Hitchbourne, Thomas Dawes, Caleb Davis and Edward Paine, to consider the expediency of procuring a city charter for the town. The measure was debated, but found at the time little favor.

He was appointed chairman in the house to report rules and orders for its government, and to prepare the answer to the address of the governor, a ceremonial borrowed from the usages of the English Parliament, which was not abandoned in Massachusetts before the year 1825. He was appointed to prepare the act passed this session for the relief of persons insolvent, and, with General Heath and John Brooks, afterwards governor, to revise the militia laws. He was also upon other committees charged with obtaining and preparing the valuation of the lands and buildings of the commonwealth to be returned to Congress for the apportionment of a direct tax, and to address a letter to our delegates in that body to ascertain the salaries and all other expenses of the continental establishment. The subject of new trials and reviews in civil causes, the collection of debts under the treaty, and the proper provisions for bringing constables and those having public money to account, were committed to his care. He was on various other committees, generally as chairman, for settling the line between us and the state of New York;

Another principle of international comity, if not of public law, became in time to be generally recognized, that all lands in the possession of the heathen belonged to the first discoverer. No respect was entertained by Christian monarchs for the rights of savage tribes; and, under the sanction of the great vicegerent of the church, the American Indians, unless willing to be converted, were regarded as entitled to little more consideration than the beasts of their forests, and their territories were unceremoniously appropriated. In 1497, John Cabot, and Sebastian, his son, under a commission of discovery from Henry the Seventh, sailed along our shore, and, upon the pretension of being its earliest European visitors, were thereby considered to have secured to that monarch and his successors the exclusive dominion and property of all the American continent north of the Spanish possessions. In the succeeding century various explorations were made at different points on the coast, but no settlements permanently established. Sir Humphrey Gilbert, in 1578, through the influence of his half-brother, Sir Walter Raleigh, procured from Queen Elizabeth a patent to found a colony, but was lost at sea upon an expedition for the purpose. In 1584, Raleigh obtained another charter, in his own name, virtually a reversal of Sir Humphrey's, under which several efforts, among others that at Roanoke, were made, but without any permanent success. During this same century the Spaniards, more energetic, under De Soto and others, penetrated far into the valley of the Mississippi, and, later, founded St. Augustine, in Florida; while the French, sending out expeditions to explore and convert, under Verriani and Cartier, and, later, under Champlain and De Mont, engaged largely in the fisheries, and established for a time colonies at St. Croix, Port Royal, and on the St. Lawrence.

In the month of April, 1606, after Raleigh's attainder, a charter was granted by James the First constituting two companies to plant colonies on the American coast between

the thirty-fourth and forty-fifth degrees of north latitude. The first, called the London Company, was empowered to establish settlements between the thirty-fourth and forty-first parallels, or between Cape Fear and the east end of Long Island. The other, consisting chiefly of merchants and adventurers in the west of England, about Plymouth and Bristol, was entitled the Plymouth Company, and had the same privileges between the thirty-eighth and forty-fifth, or between Delaware Bay and Halifax. Neither company was to commence a settlement within one hundred miles of any previously established by the other; and the extent of each colony was to be limited to fifty miles along the shore on either side of the point first occupied, and to one hundred miles in depth inland or seaward, including all islands within that distance.

Under the charter of the London Company an expedition, under Newport, was fitted out in December, 1606, and founded the following spring the colony at Jamestown, in Virginia. Two months later another, under the auspices of George Popham, as president of the Council, and Raleigh Gilbert, nephew of Sir Walter Raleigh, as admiral, planted themselves on a peninsula at Georgetown, in Maine, at the mouth of the Sagadahoc, or Kennebec, where they built a fort called St. George, and also a small vessel called the Virginia. The severity of the ensuing winter, the death of Popham, and the tidings of the decease of Sir John Gilbert, making it important for his brother Raleigh, who was his heir, to return to England, broke up the settlement.

On the third of November, 1620, upon their own application, King James superseded the Plymouth Company by a new charter, known as the "Great Patent," by which the whole of North America between the fortieth and forty-eighth degrees of north latitude, excepting places actually occupied by any other Christian prince or people, and extending from sea to sea, was granted to forty noble, wealthy and influential persons, in full property, with exclu-

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sive rights of jurisdiction, settlement and traffic. They were incorporated as the Council established at Plymouth, in the county of Devon, for the planting, ruling, ordering and governing, New England, in America. The commons were greatly displeased at this unreasonable exercise of power, and passed a resolve, the following year, pronouncing the charter a great grievance and void. But no right being recognized in Parliament to control the royal prerogative in this particular, it was, notwithstanding, considered valid.

The Council of Plymouth proceeded to parcel out the territories, so liberally granted them, chiefly among their own members; but, owing to their imperfect acquaintance with the geographical features of the country, their patents often overlapped or interfered. It is not essential to our present object to offer a complete history of their grants; nor, indeed, would it be possible, for their records are not known to have been preserved. Yet, as most of these patents have some bearing upon the question in controversy, at the hazard of being tedious, the more important will be mentioned. In a map of the celebrated navigator, Captain Smith, in Purchas, published in 1624, the names of the proprietors, then reduced to twenty in number, are set down in order, indicating a division; but several even of these appear to have attached little value to their rights, and the final conveyances by the Council were, in some instances, to other persons. Of these names, many of which are familiar to those acquainted with the history of that day, Lord Sheffield alone has any immediate connection with our subject. The patentees, on the third of February, 1624-5, in the presence of King James, "had their portion assigned unto them by lot, with his highness' approbation, upon the sea-coast, from east to west, some eighty and one hundred leagues long." Thus, by royal sanction, each became vested of his portion in severalty, with all the powers of government granted in the

great patent. The Council had previously published their proposed "Platform of the government and division of the territories in general;" from which some approach to the feudal system of Europe seems to have been in contemplation; each proprietor being permitted to subdivide his tract into manors and lordships. Insufficient data remain for tracing the various chains of title from these original proprietors to the grantees who actually received deeds from the Council. But yet enough have been preserved for our present purpose.

The Pilgrims who founded New Plymouth had negotiated with the Virginia Company for permission to found a settlement within their limits, and intended to establish themselves near the Hudson. But the Dutch West India Company had already taken possession of that river, and are said to have influenced their captain, before he left Leyden, to carry them further to the north. They received, shortly after their arrival at Plymouth in December, 1620, a conveyance from the Council, in trust to Pierce, for their benefit, procured by the efforts of Gorges. Pierce, in 1622, April twentieth, took a conveyance to himself, and released, upon the eighteenth of May, 1623, to the adventurers, for five hundred pounds. It was not till January, 1629, that the Council made the patent direct to William Bradford and his associates, by defined limits. It was of all that tract in New England between a rivulet called Cohasset at the north, and the river Narraganset towards the south, and the great Western Ocean towards the east, and between and within a straight line directly extending up into the main land towards the west, from the mouth of the said river Narraganset to the utmost limits and bounds of a place or country in New England commonly called Pokanacut, alias Sowamset, westward. Another tract for a fishery, extending from Cobisecontee towards the Western Ocean, to a place called the Falls of Neguamkike, with fifteen miles in breadth, on either

side of the Kennebec, granted in 1627, was also embraced in this confirmation. This, sold for five hundred pounds, by the Plymouth colony, in 1655, to Tyng, Brattle, Boies and Winslow, has been known in modern days as the Plymouth Company.

The residue of what now constitutes the Commonwealth of Massachusetts, and which was esteemed by many of its early visitors the paradise of New England, fell, in the general division, to the share of Lord Sheffield. In September, 1623, the Plymouth colony sent Edward Winslow to England to report their progress and procure supplies. While there, with Robert Cushman for his associate, he procured from Sheffield a patent, to remain valid for seven years, of Cape Ann, with full powers to colonize and govern. Upon his return the following spring to Plymouth, his vessel, the ship *Charity*, after discharging her cargo, was despatched to the cape with planters. A frame house was erected, and some fishing-stages; but the loss of their buildings, by fire and other disasters, disheartened them, and all, except the more resolute, deserted.

Meanwhile, the Rev. John White, of Dorchester, in the belief that it would be both of spiritual and worldly advantage to the numerous fishermen frequenting its waters that some permanent settlement should be established, persuaded several of his friends among the merchants engaged in these fisheries to unite for the purpose. Three thousand pounds were subscribed, and the adventurers, under the name of the Dorchester Company, having made the necessary arrangements with the Pilgrims at Plymouth, sent husbandmen to the cape, who selected for their home the present site of Gloucester. Roger Conant, who had been at Nantasket, was soon after appointed their governor, and administered the affairs of the infant plantation with great prudence and discretion. Many of the colonists, ill-suited to cope with the unavoidable hardships and restraints of their condition, early embraced the offer made them by the

adventurers in England of a passage home. Conant, zealous for the honor of the colony, remained for a time at Cape Ann, and then, with Woodbury, Balch and Palfrey, removed to Naumkeag, or Salem; but, before his removal, wrote to obtain a grant from the Council for his new settlement.

Mr. White, often called the father of New England, disposed to meet his wishes, used every exertion to procure a patent and recruits. At his instigation several of the former associates, who felt still disposed to persevere, joined with themselves some honest and religious men of London, possessed of wealth and influence, and application was made for a grant of territory. Their request was complied with, and, on the nineteenth day of March, 1627, Sir Henry Roswell, Sir John Young, Thomas Southcoat, John Humphrey, John Endicott and Simon Whetcomb, received a patent "of all that part of New England lying between the river Merrimac and another river called the Charles, being the bottom of Massachusetts Bay, and to a line three miles to the north of the said Merrimac, or to the northward of any and every part thereof; and all the lands lying within the limits aforesaid, north and south, in latitude and breadth, and in length and longitude, and throughout the main lands there, from the Atlantic and Western Sea and Ocean on the east part, to the South Sea on the west part."

About this same time an association of pious, educated and wealthy individuals, of Boston and other parts of Lincolnshire, dissatisfied with the spirit of intolerance experienced at home, were making up their minds to seek in the western wilderness undisturbed enjoyment for their religious rights. They opened a correspondence with the new patentees, and, uniting with them as the New England Company, bought out all the property of the Dorchester adventurers. By what means they extinguished the paramount title of Lord Sheffield does not appear, but, it is

reasonable to conjecture, by purchase. Their patent was confirmed by charter, under the royal seal, issued the fourth of March, in 1628-9, creating the associates a body politic, as the Governor and Company of the Massachusetts Bay in New England. Endicott had already sailed, in the *Abigail*, on the twentieth of June, 1628; but the charter followed him to Salem, and the duplicate, now in the state-house, was brought over by Winthrop, in the *Arbella*, in June, 1630.

But the grant under the division to Sheffield was not the only conflicting title from the Council of the territory embraced in the Roswell patent. As early as 1621 they had granted to John Mason a tract between Salem and Merrimac rivers, called Mariana; another, about Weymouth, to Weston; and one, in December, 1623, to Robert, son of Sir Ferdinando Gorges, in recompense for his father's services. This last was bounded ten miles along the north-east shore of Massachusetts Bay, extended inland thirty miles, and embraced all islands, not previously granted, within three miles of the main land. Gorges succeeded Weston at Weymouth, but only for a short season; and it is sometimes supposed that Blackstone of Boston, Maverick settled at Noddle's Island, Thompson at Thompson's Island, and Welford, the smith, at Charlestown, were remnants of his company.

If, in some instances, evidence of the fact has perished, there is reason to believe that the usual forms of the English law were generally complied with in the transfer of possession. Upon the Plymouth charter, livery of seizin, made by the attorney of the grantors, was regularly endorsed. The deposition of Breckenbury, taken in 1680, proves that this ceremonial was not neglected in the surrender, by Governor Conant, of possession, under the Sheffield patent, to Endicott, as representative of the grantees under that to Roswell. Although superseded, in utter disregard of the conditions upon which he had con-

sented to remain, Conant relinquished the control of affairs without a murmur, and passed the rest of his days in comparative obscurity. The grant to Robert Gorges was at the time vested in Oldham, and Endicott had been instructed to make the best arrangements he could with the old planters. Fifty years later we learn, from the deposition of Breckenbury above-mentioned, that claim had then been lately made by the heirs of Mason under the old grant of Mariana.

Other patents from the Grand Council bear upon the boundaries of Massachusetts, as connected with our controversy. On the tenth of August, 1622, a grant was made to John Mason and Sir Ferdinando Gorges, between the Merrimac and the Kennebec, extending back to the river in Canada, of a tract called Laconia. In 1629 they divided, Mason procuring from the Council a patent of his share between the Merrimac and Piscataqua, extending sixty miles inland, which he called New Hampshire; Gorges received a confirmation of the easterly portion, under the designation of New Somersetshire, between the Piscataqua and Kennebec; and in 1639, four years after the surrender of the charter of the company, another, from King Charles, of the same territory, now limited to one hundred and twenty miles from the sea, and called Maine. In May, 1667, his grandson sold this for twelve hundred and fifty pounds to Massachusetts, much to the annoyance of King Charles, who wished to purchase it for his brother, the Duke of York. The Earl of Warwick received from the Council, for his share of New England, the tract bounding east on the Narraganset, north on the grant to Massachusetts, south one hundred and twenty miles on the sea, and extending west, as it is said, for the patent is not known to have existed, to the Pacific. Warwick conveyed, March nineteenth, 1632, to Lord Say and Sele, and Lord Brooke and nine others, their associates; and upon this grant were founded the settlements incorporated later into the colony

of Connecticut. Rhode Island obtained her first charter from the crown in 1641, and her second from Charles the Second in 1663. In 1635 the Grand Council of Plymouth, dividing their territories into twelve principalities among eight associates, surrendered their charter to the king.*

The north and south boundaries of the grant to Massachusetts, as defined in the patent, were not easily determined. That to the south, settled as regards Connecticut in 1826, remained until quite recently in controversy on the Rhode Island line. In 1652 the General Court ordered that the north line should be considered as passing through a point three miles to the north of every part of the Merri-mac, and thence upon a straight line east and west to each sea. Upon an observation made that year upon the head of the river, as it issues from the Winnipiseogee Lake, it was found to be in latitude $43^{\circ} 40' 12''$, corresponding with that of Split Rock, on Clapboard Island, in Casco Bay. This

* To encourage settlements the patentees procured confirmations from the Council of portions of their grants. Of these, one, in 1624, was that of Agamenticus, of twenty-four thousand acres on York River, made to Sir Ferdinando Gorges; two, in February, 1630, on Saco River, eight miles by four, one of them to Thomas Lewis and Richard Boynton, now Saco, the other to John Oldham and Richard Vines, the site of what was formerly Biddeford; others at the request of Mason, in March, 1630, for two companies on the Piscataqua, one at Dover, to Hilton, for the upper country, the other at Portsmouth, for the lower plantations; one, March second, 1630, to John Beauchamp, of London, and Thomas Leverett, of Boston, thirty miles square, west of Penobscot Bay, called the Muscongus or Waldo patent; another, the same year, to John Dy and others, forty miles square, near Casco Bay, called Lygonia, or the Plough patent; one, February twentieth, 1631, of twelve thousand acres, called the Drowne or Pennaquid patent, between Muscongus and Damariscotta, to Aldworth and Eldridge; one to Sir Thomas Cammook, nephew of the Earl of Warwick, of fifteen hundred acres, at Scarborough; and one, December first, 1631, to Robert Trelawney and Moses Goodyear, of land east of the preceding. Several other deeds were made by the Council in confirmation of those already mentioned; the last known, dated February third, 1635, immediately before the surrender of their charter, being to Edward Lord Gorges, of Rhode Island and a part of Massachusetts. The members present at this meeting were Hamilton, Arundel and Surrey, Carlisle, Sterling, Sir F. Gorges, and Mason.

line was variously modified at different periods, and at length decided, in 1740, by the king in council, to run as at present three miles north of the river, about forty-four miles, to a point three miles north of its southernmost bend, and thence on a due west course to the Connecticut. It was not marked out with care in the subsequent survey, and up to 1826 still continued a fruitful subject of litigation.

In the summer of 1609, Hendrick Hudson, an Englishman in the service of the East India Company of Holland, while searching, in his vessel called the *Half-moon*, for a north-west passage to India, had visited our shores. He entered the Chesapeake, where he found the infant colony planted three years before by the English, and afterwards sailed up the river now bearing his name. The States General, in 1614, granted the monopoly of the trade on the river to a company, who established a fort at Albany; and the following year, to protect their settlement from the attacks of the Virginians, who had previously, under Argal, extorted from them tribute and an acknowledgment of allegiance, another on the south-west point of Long Island. Subsequently two more were erected, one called the Fort of Good Hope, on the Connecticut, upon the present site of Hartford, and the other at Nassau, on the Delaware. In 1620 the States of Holland created the West India Company, to whom was entrusted the government of their colony.

No record remains of any defined limits to the New Netherlands; and, although some Dutch writers claimed as a part of its territory all the area between Canada and Virginia, no official documents are to be found asserting any such pretensions. Their encroachments towards the east were successfully resisted both by Massachusetts and Connecticut, and a line twenty miles east of the Hudson recognized as the boundary of the former. After the restoration of Charles the Second, their possessions, occu-

pied by about six thousand inhabitants, were seized by the English, and granted to the Duke of York by his royal brother, by charter, bounding east by the Connecticut, and west by the Delaware. The Dutch settlement had been principally along the Hudson, and extended but a short distance from its banks. The forests beyond were occupied by the Iroquois, or five nations: the Mohawks, Senecas, Oneidas, Cayugas, and Onondagas, joined later, in 1712, by the Tuscaroras, from Carolina. They were intelligent and warlike; and no European settlement was gained before the eighteenth century within their limits by adverse possession against the original grantees of the British crown.

In 1684, under James the Second, the colony charter of Massachusetts was annulled on *quo warranto* for misuser; and, on the seventh of October, 1691, the provincial charter of William and Mary incorporated the colony of Massachusetts Bay, the colony of New Plymouth, the province of Maine, the territory called Acadia, Nova Scotia, and all that tract of land called Sagadahoc, lying between the said territory of Nova Scotia and the said province of Maine, as the province of Massachusetts Bay, in New England. It was to extend west towards the South Sea as far as the colonies of Rhode Island, Connecticut and the Narraganset country. This restriction might affect the right of jurisdiction, but could not legally divest Massachusetts of its full extent to the Pacific, as they had received it under the patent from the Plymouth Council. The new arrangement equally displeased Plymouth, which colony would more gladly have remained by herself, and New Hampshire, which, notwithstanding her petition to continue under the jurisdiction of Massachusetts, as she long had been, through the influence of Allen, a London merchant, grantee of the heirs of Mason, was excluded and created a separate province, of which Allen was made first governor. Under the grant to the Duke of York, that

colony claimed for its eastern boundary the Connecticut. The lands west of New Hampshire remained in controversy, causing bloodshed even after the Revolution; the question being finally settled in 1790, by erecting the tract into the state of Vermont.

After the Declaration of Independence, in 1776, the great inequality among the different states as to their territorial limits threatened to prove an insuperable obstacle to any plan of federal union upon an enduring basis. At the suggestion of Virginia, Congress passed a resolve in October, 1780, inviting states, possessing claims to the country west of their settlements, to cede such parts as they should see fit to the federal government for the general benefit. In creating another important and common interest to protect, and by thus providing means for eventually meeting the expenses of the war, it was reasonable to anticipate that good fellowship among the states would be promoted, as also the probability of that perpetual union contemplated by the articles of confederation, which at that time still remained without the full assent of all the states. Virginia, throughout the struggle patriotic, energetic and disinterested, set the example of generosity in yielding up all the boundless range of wilderness to the north-west of the Ohio which she had received in her patent from the London Company, or under her royal charters, but still on conditions somewhat onerous. Seven of the eight proprietors of Carolina had released their right of extending westward to the South Sea to the crown, and the eighth taken his portion in North Carolina. Georgia had some slight claim westward, under the proclamation of 1763, which she long refused to relinquish. Connecticut, whose original patent had been lost, was the only other state having rights to surrender; and although her claim was not recognized on trial by the federal court, in making her cession she reserved a tract in Pennsylvania, which for many years remained a subject of contention.

The claim of Massachusetts to bound west on the Pacific had never been abandoned. So lately as 1773, in negotiating the easterly line of New York under Governor Hutchinson, it had been asserted and reserved. Her ancient charter of 1628-9 had been annulled by the Privy Council in 1684; but this could not divest her people of the right to the soil, nor could the restriction in her charter of 1791, to extend to the west line of Connecticut, have that operation. On the other hand, the conquest of the New Netherlands, in 1664, and the treaty of Paris, in 1763, recognizing the English rights west to the Mississippi by the principles of public law, the *jus post limini*, enured to their benefit as assigns of the Grand Council of Plymouth, grantees in 1620 of the British crown.

Early after the peace of 1783 the subject attracted the attention of our General Court, and James Bowdoin, Samuel Adams and John Lowell, were appointed, in July of that year, to report the state of our claim to the next session. In October, Sullivan was appointed chairman of a committee to determine upon the suitable measures to secure its recognition; and, in the following May, upon another to prepare a statement of the claim to lay before Congress. He was also appointed, the following month, to consider what portion of the western lands should be ceded to the United States; and, in October, reported an act, passed the thirteenth of November, 1784, authorizing the state delegates in Congress, or any three of them, to cede to the United States, to be disposed of for their general benefit, such part of the land belonging to Massachusetts, between the Hudson and the Mississippi, as they should think proper. In June of the same year he was chosen, with John Lowell and Francis Dana, the latter of whom declined the appointment, commissioner to prosecute the claim to the western lands. In January, 1785, thirty pounds were appropriated for books and ascertaining the latitudes, and four thousand five hundred pounds

for the compensation and expenses of the commissioners; and in March an act was passed empowering Sullivan and Lowell, with the delegates in Congress, to prosecute the claim before that body.

Between the line of cession to the United States, which was a meridian about twenty miles west of Niagara, and the line established in 1763 as the westerly bound of the charter to the Duke of York, were about thirteen millions of acres, to which New York had no other pretension than an Indian acknowledgment of sovereignty. In the ninth article of confederation provision was made for the adjudication of conflicting titles to territory between the several states. Upon petition of any state, making such claim against another, Congress was to appoint a day for their respective agents to appear and choose commissioners. In case the parties disagreed, three persons for each of the United States were to be selected; and from that list the parties, beginning with the petitioners, were to strike off alternately until the number was reduced to thirteen. From these not less than seven, nor more than nine, were to be selected by lot. If either party refused to appear, the secretary of Congress was to act in their behalf in striking from the list till the organization of the tribunal, whose decree was to be conclusive, should be made complete.

On the eighth of December, Lowell and Sullivan appeared at Trenton, where Congress was sitting, and, with Gerry, King, Holten and Partridge, the Massachusetts delegates, agreed on the twenty-fourth with James Duane, R. R. Livingston, Walter Livingston and Egbert Benson, the agents of New York, upon the following commissioners: Harrison and Johnson of Maryland, Rutledge of South Carolina, Wythe, Grayson and Monroe, of Virginia, Reed of Delaware, and Smith and Patterson of New York. In June Rutledge, Harrison and Grayson, declining, Johnson and Sitgreaves of North Carolina, and Henry of Virginia,

were substituted, and Williamsburg, Va., and the third Tuesday of November, were the place and time fixed for the hearing. The substitutes do not appear to have accepted, and on the twenty-third of April, 1786, notwithstanding the unremitting efforts of the Massachusetts commissioners, to whom Rufus King and Theophilus Parsons had now been added, no court had been organized. On the twenty-fifth of April, 1786, the Legislature of New York authorized its agents, James Duane, R. R. Livingston, Egbert Benson, J. Herring, Melancthon Smith, Robert Yates and John Lansing, to settle the controversy otherwise than by a federal court; and that of Massachusetts, on the fifth of July, gave like power to her commissioners. On the thirtieth of November, 1786, a meeting was held at Hartford, Conn., and on the sixteenth of December the instrument signed, settling the controversy. By this the land was very nearly equally divided, the jurisdiction of the whole being left to New York. To a call of a committee of the General Court, the nineteenth of February, 1787, for an account of the negotiation, Sullivan rendered the following report:

“ Agreeably to your request I have thrown upon paper some remarks explanatory of the covenants entered into by the two states above-mentioned. I am very sorry that the absence of the other commissioners prevents these remarks from being as full and perfect as you might expect, or I could wish them to have been.

“ After a variety of expensive attempts to obtain the session of a federal court in Virginia, to decide upon the claim of this commonwealth to lands on the westward of the Hudson, there appeared but little probability of procuring one. It so happened, however, that New York, desirous of putting an end to the controversy, empowered her agents to compromise the same without a judicial decision; and similar powers being, by the Legislature of this commonwealth, vested in its commissioners, a meet-

ing was held at Hartford, in the state of Connecticut, on the thirtieth day of November last. A negotiation, being then opened, was continued to the date of the instrument laid before the General Court, and which contains the covenants by which the controversy was closed.

"The land therein ceded to the commonwealth is about six millions of acres, bounded as follows: beginning on the line of the state of Pennsylvania, eighty-two miles west of the north-east corner of that state, and running north into Lake Ontario, till it comes to the line dividing the dominions of the King of Great Britain from the territory of the United States; then, on the same line westerly, till a meridian line falling from that line will intersect the southern bank of the lake at one mile's distance from the mouth of the straits of Niagara; then on a line parallel to said straits, and one mile distant therefrom, to Lake Erie; then in the middle of that lake to a point whence a meridian line will intersect the westernmost corner of Pennsylvania; and thence along the Pennsylvania line to the beginning. This line last-mentioned is one hundred and sixty-eight miles in length. Between the land ceded to the commonwealth and a line of property settled in the year 1768 by the King of Great Britain as the line of the then province of New York, and described on the plan exhibited with the indented parchment as irregularly extending from the north-east corner of Pennsylvania northward, there is a tract of land ceded to the state of New York, to which their title, claimed under the grant of the Duke of York, was ever denied by this state.

"Various considerations induced the commissioners on the part of the commonwealth to agree to this session. The charter, which passed the official seals March fourth, 1628, granted to Sir Henry Roswell and others the land lying three miles to the southward of Charles River, and three miles to the northward of Merrimac River, and in that breadth, extending from the Atlantic to the South Sea,

excepting such parts as were inhabited by any Christian prince or people. The Dutch then had a settlement on the Hudson, and the charter of Connecticut having the same description in longitude as that of the Massachusetts, they soon had a controversy with the Dutch settlers; and the colony of New Haven, in the year 1650, settled a boundary with the Dutch ten miles east of the Hudson.

"In the year 1688 the charter of Massachusetts was vacated by a process in chancery, on a writ of *quo warranto*; and in the year 1691 a new charter was granted by the crown, and accepted by the people, giving the colony its former width in latitude, but describing its extent in longitude from the Atlantic Ocean on the east, *toward* the South Sea on the west, as far as the colonies of Rhode Island and Connecticut, and the Narraganset country. In a controversy with New Hampshire, in the year 1737, it was determined that the line of the Massachusetts should extend westward till it met the line of New York.

"The arguments on the part of the commonwealth, that the process on *quo warranto* in chancery could not take back a title to the soil which had vested by a prior grant, as well as the illegality of that process, were well understood by the agents; but, inasmuch as the colony's accepting a new charter, with other bounds and other descriptions than the former one, might influence a federal court to determine that neither New York nor Massachusetts were the legal proprietors of the soil between the line of property settled for New York, in 1768, and Lake Erie, there could not but be a risk in a judicial decision of the question. In a federal court holden at Trenton, in New Jersey, upon a suit of Connecticut against Pennsylvania, it was determined that the claim of the former, for extending their charter, which was similar to our first, to the South Sea, could not be supported.

"Another question could not but arise on the breadth of the charter. The old and the new charter extended

three miles north of the river Merrimac. How far from the sea the waters which flow from Winnipiseogee pond to the ocean have justly the name of Merrimac, is matter of old controversy. The Massachusetts have always contended for a branch called Pemigewasset, but the decision of the king and council, on a controversy with New Hampshire, fixed it at Pawtucket Falls. If the branch above-mentioned is the true boundary, then the upper or northern parallel of this state, being extended, will fall into Lake Ontario a little to the southward of the centre of those waters. But if the boundary, as settled in 1737-40, is right, then the upper parallel falls many miles to the southwards of that lake, and passes through the straits of Niagara. Both which lines are marked on the plan. On the one side, it is urged by New York that the breadth of the charter, being once settled by a competent and allowed jurisdiction, can never be again controverted. On the part of the commonwealth, it is said that even if the decision was had in a court of acknowledged jurisdiction, yet, as New York was no party to the controversy, or known in the process, they cannot avail themselves of the judgment. What weight either argument would have in a federal court can never be ascertained without a trial. But if the line had been established according to the judgment between Massachusetts and New Hampshire, all the land within our parallels, between the line of property settled for New York in 1768, and the waters of Lake Erie and Niagara, would be but little if any more than there is in the tract ceded to Massachusetts, including ten townships, of six miles square each, lying between the rivers Tioga and Chenango, and which are reserved to this state.

“ Had the jurisdiction of the tract been ceded to the commonwealth, the expense of representation, and of supporting courts of justice there, would have been excessive, and, perhaps, would have swallowed up any expected benefit arising from the property of the soil. Besides, the

distance and extent of the territory, which is larger than the whole state of Connecticut, would have very soon prompted the people inhabiting it to revolt, which measure could not but be countenanced by the people of New York, as well on a principle of revenge for the countenance this state has afforded Vermont, as with a view to detach them from our interest. It may be further observed that holding the sovereignty of that territory to the commonwealth would have given us an extensive and dangerous frontier, in an inland country, at too great a distance to be defended. Under the present confederation the local extension of states, all having an equal voice, is not of much consequence; and, should a new one be agreed upon, or a national government ever be introduced, it will be of less importance.

“But a sovereign state cannot with propriety hold a territory within the absolute sovereignty of another state. Therefore it became necessary to allow the state of New York a *qualified jurisdiction only*, while the property remained in this state. Accordingly it was agreed, as appears by the covenants in the indented parchment, that the state of New York should lay no tax on the soil while it remains the property of the commonwealth, nor on their grantees until fifteen years after the grant; that the commonwealth should march and keep forces on the territory for the defence and security of the same against the Indians, in the same manner as if we retained the sovereignty; and that the principles applying to sovereignties only, as expressed in the English law, *nullum tempus occurrit regi*, should be preserved; and, therefore, that no length of possession should disseize the commonwealth.

“The covenant that no purchase of the preëmption of the soil from the native Indians should be made but by the commonwealth, or by a disinterested superintendent appointed for that purpose, is of great consequence to both states, and ought to have a very particular attention.

New York has a great interest in this article, because, should the commonwealth indulge private and interested men in such purchases, such frauds would probably be transacted as might involve the state of New York in a war with the natives. The commonwealth, also, is greatly interested, because, while this article is attended to, the grants of the state will be conducted in a regular, systematic manner, and, in a great measure, be guarded against frauds and impositions; and, what must still be a greater motive with government, the purchases from the Indians will be founded in the principles of justice and equity, and the character of the state in these transactions be saved from the disagreeable imputations which may otherwise rest against it. I would, therefore, wish that the idea of appointing a man, or men, to manage and dispose of this property, who shall give sufficient bonds never to be, directly or indirectly, *interested* in any purchases or grants, may be suggested; for the territory assured to the state cannot but be considered as a great and valuable property.

“The provision of recording the deeds and grants in the secretary’s office of the commonwealth is in pursuance of the idea of reserving to this state so much of the sovereignty as may render the property valuable, and secure the proper disposal of it. That copies of those grants and purchases should be known to New York is necessary, in order that its government may be ready to answer any complaints made by the Indians against intruders, or private purchasers, and that justice may be more readily done, in their courts of justice, among the grantees of the commonwealth.

“The tract ceded to New York adjoining upon the strait of Niagara, parallel thereto and extending one mile therefrom, contains the place where the British garrison now stands, and will probably be a place of consequence, as it is the most convenient pass between the dominions of

Great Britain and the territory under consideration. It forms an important frontier to New York ; will probably be a place of trade, and consequently of great value to that state, but perhaps of not so much to this. Be that as it may, the cession of it became necessary as a compromise. The land on the west side of Niagara, and between the lakes Erie and Ontario, is within the British dominions.

"The cession of this state to the United States is to the westward of a meridian line falling from a point in Lake Ontario, twenty miles west of the strait of Niagara, down to Pennsylvania line. This will give the United States a small piece of land between the westerly part of Pennsylvania and Lake Erie. The cession of New York is to the westward of a meridian line falling through the west corner of Pennsylvania. Perhaps the reason of the difference of these cessions was the want of a proper knowledge of the geography of the country. Both cessions were, undoubtedly, intended to be the same. If we consider the tract ceded as derived from New York, the piece of land mentioned will be incontrovertibly the property of the commonwealth. But, as it was not within the intendment of the cession, the United States will never claim it. Be that as it may, it is not of consequence enough to deserve much attention.

"The plan referred to above is not altogether taken from actual surveys. The north line of Pennsylvania has been measured about twelve miles from the north-east corner of Niagara, and the greater part of the south shore of Lake Ontario has been surveyed by a British geographer, and the Susquehannah and some of the internal part of the country by one who attended General Sullivan on his expedition. The banks of Lake Erie having never been surveyed, the tract of land ceded to this state will be either more or less, according as the shore of that lake shall be found ; but it may be depended upon that, exclusive of the ten townships between the rivers Tioga and

Chenango, it will contain six millions of acres. The ten townships were earnestly contended for, because the commissioners were informed, though not officially, that a contract had been made by the government, with Mr. Brown and others, for them, and the honor of the commonwealth was concerned in their retention; and they, among other things, were mentioned as an equivalent for the jurisdiction.

"Almost the whole of the territory divided between the state of New York and the commonwealth is possessed by tribes of Indians. The Senecas and the Cayugas are there, and perhaps some part of another nation. It is said that the country holds more than four hundred fighting men; but the nations are fast decaying, and wish to emigrate and incorporate themselves with the savages beyond the lakes, before mentioned.

"Gentlemen, I am sorry that the absence of the other commissioners prevents your having more full, precise and satisfactory, information; but, in compliance with your request, I have thrown these hints upon paper. Any other information I can give upon this subject is at your command."

For many months after the settlement of the controversy the rebellion occupied public attention to the exclusion of other subjects. When this was finally set at rest various projects were agitated for the disposal of this western territory. As the right of Massachusetts was but that of preëmption from the Indians, their title was to be extinguished before any benefit could be realized. New York had prohibited purchases by private individuals from the Six Nations. Yet, in total disregard of this law, two companies had been organized for the purpose, one called the Genesee Land Company, composed of about eighty rich and influential residents on or about the Hudson, represented by Dr. Caleb Barton, John Livingston and Jared Coffin; and the other the Niagara Genesee Land Com-

pany, consisting of Colonel John Butler and his associates, chiefly Canadians. Through their influence over the Indian chiefs, one of whom was the celebrated Brandt, they procured a lease of all the lands of the Iroquois, subject to reservations and rights of fishing and hunting, for nine hundred and ninety-nine years; for which they agreed to pay annually two thousand milled dollars, and twenty thousand more as a bonus.

Governor Clinton, of New York, pronounced by proclamation this lease a nullity, and proceeded to procure grants to his state of the lands falling within her portion from the Onondagas, Oneidas and Cayugas. Various complications, growing out of the interference of the lessees, the state of feeling among the Indians, as also the condition of the state treasury and public debt, counselled Massachusetts against delay; and these and other reasons assigned by Sullivan, in his report, influenced public sentiment and the Legislature in favor of an early sale. This appeared the more important as Livingston, in behalf of the lessees, was an applicant for the purchase; and it was thought, were his proposals rejected, from the confidence reposed in some of his associates by the chiefs, he would have it in his power to thwart any efforts upon the part of others to negotiate successfully with the Indian tribes. It seemed, moreover, of doubtful expediency to retain a territory so circumstanced that it might easily become among ourselves a cause of dissension or corruption. Whether it would have been more judicious, or not, to retain it, the suggestion that there was any undue influence brought to bear upon the General Court seems utterly without foundation. The well recognized wisdom, integrity and public spirit, of those then directing the government, repels such a supposition.

Oliver Phelps, of Suffield, who enjoyed great popularity in Massachusetts, organized a company in the spring of 1788 (of which Judge Sullivan was a member, though with

only a small share), and made application to the Legislature for leave to purchase one million of acres. Many other influential individuals came forward with similar proposals; among them Nathaniel Gorham, one of the most distinguished citizens of the state, and who had been president of the Continental Congress. A compromise between the several parties was finally effected, by which Gorham and Phelps became the chief purchasers, and the rest were admitted to take such interest in the enterprise as they felt disposed. The sale was made on behalf of the state by a legislative committee of great respectability, and the price fixed at three hundred thousand pounds, to be paid in one, two, and three years, in consolidated state securities, then at considerable discount. The resolve authorizing the sale was dated April first, 1788, and the Rev. Mr. Kirkland was appointed to represent the commonwealth in the negotiations with the Indians, as provided by the deed of cession.

The grantees were more fortunate than they had reason to anticipate in their dealings with the Senecas, whose territories covered the cession to Massachusetts. Phelps, soon after his purchase, entered into negotiations with the lessees; but, after a bargain had been closed, finding no likelihood of fulfilment on their part, in consequence of a misunderstanding between the companies, proceeded to Niagara, and there, through the influence of Colonel Butler and Brandt, obtained a council with the Indians, at which Red Jacket was present. A purchase was made, with some reservations, of all the tract west of the preëmption line of Massachusetts, as it was called, and east of a line, which, beginning on the Pennsylvania border, ran north to the confluence of the Genesee River and the Canascraga Creek, thence along the river to a point two miles north of Canawagus Village, thence due west twelve miles, and thence north again, keeping that distance from the Genesee, to Lake Ontario. The area covered about two million two hundred thousand acres, rather more than one

third of the cession to Massachusetts. The price was to be five thousand dollars in money, and five hundred dollars as a perpetual annuity.

When the first instalment of one hundred thousand pounds fell due from the purchasers, on the first of April, 1789, in consequence of the great enhancement in value of the state securities, from the establishment of the federal government, and probable adoption of some effective funding system, Gorham and Phelps were unable to make good its payment. Suit was brought by Paine, the attorney-general, and the grantees petitioned the Legislature for relief. A compromise was made by a joint committee. Gorham and Phelps reconveyed to Massachusetts all the territory not covered by their treaty with the Indians, two thirds of their original grant, and were released from two of their bonds. They sold half of their reserved third to different individuals, and finally their residue, about one million acres, to Robert Morris, for thirty thousand pounds, New York currency. Through his agent in London, a grandson of Dr. Franklin, Morris disposed of his purchase, for thirty-five thousand pounds sterling, to Sir William Pulteney, John Hornby and Patrick Colquhoun, wealthy English capitalists.

The portion surrendered by the grantees to Massachusetts was soon after again sold to Mr. Morris. Five hundred thousand acres, a belt twelve miles wide, next west of what had been reserved by Gorham and Phelps, and extending from the Pennsylvania line to Lake Ontario, were conveyed to Mr. Morris himself, and known as the Morris Reserve. The residue was conveyed in trust for certain rich capitalists of Amsterdam, who had supplied the funds for the purchase, in four separate conveyances, three of sixteen miles each in width, extending across the breadth of the state, and the fourth of what remained being the extreme westerly part of New York. These proprietors were called the Holland Company, and, by their liberal

sales and judicious management, appear to have given satisfaction to settlers upon their territory.

This relation may seem tedious. The claim required much thought and study upon the part of the commissioners, and occupied the attention of Judge Sullivan, who had the principal charge of preparing the evidence and arguments, many months. The amounts realized by Massachusetts for this territory, worth now hundreds of millions of dollars, were certainly inadequate to its value. The leaders of the day, who controlled the General Court, influenced by the pressure of the war debt and heavy taxes, concluded it the best policy for the state to sell; and in the propriety of this course, with our imperfect knowledge of their reasons, it is presumed we are bound to acquiesce. Had it been retained till the resources of the country had been better developed, it might have proved of more substantial benefit to the state. Still, its early settlers were generally her own people, who found there a profitable field for their labor; and she may have in this way derived as much advantage as if more of its value had passed through the public coffers.

Upon the principles recognized by the federal government, in receiving from Massachusetts the cession of the tract between the Pennsylvania line and the Mississippi, the claim of the commonwealth would still seem to be subsisting between that river and the Pacific. It will not probably be ever asserted. But if, in their growing preponderance, the large states should ever be disposed to encroach upon the reserved rights of the smaller to sovereignty and federal equality under the constitution, the remembrance of the ready relinquishment by Massachusetts of this extensive domain for the general benefit may induce a spirit of forbearance.

CHAPTER IX.

THE REBELLION.

WERE we permitted, now that so long a period has elapsed, to lift the veil from the sanctities of domestic life and social intercourse, many pleasant pictures might be presented of Boston and its people when Sullivan first made it his abode. The dress and manners of former generations are ever an interesting subject for study, and we would gladly learn in what their habits, tastes and sentiments, differed from our own. It would be agreeable to re-people for a while the streets and houses with the voices and animated presence of ancient worthies, whose names we often hear, but with whom we have few well-defined associations.

From the fragmentary records that remain it would be comparatively easy to weave anew much of the varied web of their existence, and, by comprehending in a single glance its pleasures, trials and employments, their various objects of ambition and of effort, we might derive not only entertainment, but profitable instruction. In most instances this temptation might be indulged without any possibility of evil; but the rules of social decorum forbid liberties with the memory of the dead, who still live in their descendants with increased sensitiveness to praise and blame. Yet, as the circumstances and incidents of private life have often an important bearing on character and conduct, no sketch of one who has taken an active part, how-

ever subordinate, in public affairs, can be complete without some allusion to the events of his household.

When Judge Sullivan established his family in Bowdoin Square, it consisted of his wife and six children, of whom the second was a daughter. James, the eldest, a lad of brilliant talents and unusual promise, at the age of fourteen, had lately entered Harvard College. The other boys, all under twelve, were sent to different schools, where they made many friends, and were favorably placed for enjoying their hours of recreation.

Immediately opposite their new residence, Beacon Hill, taking its name from the ancient beacon which formerly crowned its summit, and which was used to give signal of approaching danger to the neighboring towns, rose to nearly double its present elevation. Its steep slopes were covered in summer with rich verdure, and occupied by cattle grazing; and in the colder season it afforded an inexhaustible supply of amusement to youth in the petty ponds for skating, and deep snow-banks. From the foot of the hill towards the north, where is now a crowded quarter of the city, fields and marshes extended as far as Barton's Point. These were partially occupied by long, low buildings, used for the manufacture of rope and cordage; at intervals, where the nature of the ground permitted, there were clusters of humble cottages; and towards the water stood the powder-house and pest-house, both regarded with great awe by imaginative urchins. Scattered about the declivity of the hill, the shores of the river and the point, were many lines of defences, ramparts, ditches and countervallations, the remains, still in a tolerable degree of preservation, of works thrown up by the British during their armed occupation of the place, or which had been subsequently erected as security against their return. Upon the opposite slope of the hill, towards the south, protected by its crest from the north winds, were the spacious mansions of Hancock and Bowdoin, the two first governors, surrounded by gar-

dens and extensive enclosures, and commanding views of the harbor, sea and country, of great variety and beauty.

This westerly part of the town bounded on the Back Bay, which spread out in a broader expanse than at present towards Brookline, Cambridge and the mouth of the Charles River; and, no bridge as yet obstructing its communication with the harbor, numerous vessels and sail-boats gave life and animation to its waters. Not far from the square, towards the north, lay the Mill Pond, kept nearly at the level of the tide, now long since filled up and covered with buildings, but then, with its grist-mill and well-filled warehouses, a busy centre of trade and industry. To boys fresh from the quiet pursuits of country life, the streets, with their long lines of substantial edifices, and picturesque costumes of much greater variety than is ever exhibited in the sober colors and plain forms of modern fashion, afforded constant entertainment; and, brought up as they had been, far from the shore, the harbor and the sea opened to their excitable fancies a new world of wonder and delight. With all his professional and public occupations, their father never forgot that his most sacred duty was the proper training of his children; and, taking part in their pleasures and pursuits, he watched over both their studies and diversions with affectionate solicitude.

In February, 1783, George, the youngest son, was born; and, a year later, Nancy, the youngest child, who lived but fifteen months. On the twenty-sixth day of January, 1786, Mrs. Sullivan, who in the morning had presided at the breakfast-table, surrounded by her bright and happy group of children, was taken suddenly ill, and died at eight o'clock the same evening. To a man of keen and ardent feelings, who fondly loved the partner of all his joys and sorrows since early manhood, her loss, when they were both but at the middle stage of life, was a heavy shock. In a letter written to his friend, Rufus King, from beside her coffin,

he says: "On Thursday morning last I felt myself as happy as I wished. I breakfasted with a lady whom you know I adored. She was cheerful and gay, but before eight o'clock in the evening she was a breathless corpse. For the space of nine hours' illness, the skill of physicians was exhausted in vain attempts to save a life dear to many, but infinitely so to me and her seven children. She now lies by me while I write; but her lips are forever sealed, nor do her frozen eyelids permit those charms which so constantly have beamed pleasure on my soul. I cannot, nor ought I, to write to communicate to you the feelings of my heart. O, my friend! you will pity me. A life of gloominess and anxiety awaits, and, had I not now the double charge of these orphans, my earnest prayer would be to go down with her to the silent tomb."

Again, some three months later, while still under the poignancy of recent bereavement, he writes to the same friend: "Your letter is kindly addressed to a heart suffering in all the severity of grief. I thank you for your care of my health, in the expressing of which you so intimately enter into my feelings. My dear children demand much from me, and deserve everything. I am obliged to appear quite otherwise than I am, to keep up their spirits; and I give you the pleasure of knowing that my health is better than it has been for a long time past. My dear King, I have now nothing left for me but a fearful anxiety, and a dull, heavy, downward road of life. She for whom alone I lived, she who wished to live for me, is now no more. Religion points her out to me in the company of angels; but that form, in which she blessed me with every domestic happiness for eighteen years, is now mouldering in the tomb. O, could I, were any such thing possible, see her happy shade, I would lay me down night after night in the gloomy church-yard to enjoy the sight! I see I am wild. There is a luxury in grief some men have not the capacity to enjoy. May God long preserve you, my dear friend,

from that kind of sorrow which, to a man of your generous sensibility, would be like the arrows of death indeed.

"I can write to my brother with composure; but I know not how it is, that, when I address you, the tears are spontaneous, and flow with pleasure. I rejoice that you are joined to a lady in the way which makes friendship certain. I am rich in your happiness, because I hear that it is founded on the connection of virtue and amiability. Enjoy each moment; they look big with pleasure as they advance, but, when they are passed, they are annihilated. How many moments have passed unheeded which I might have filled with love and joy! But they will no more return. Nor can I now grasp one sprig of happiness on this side of the grave. My dear King, pardon this effusion. It may bear the candid eye of a friend like you, but would blush at other eyes.

"I cannot refrain from telling you that the more you rise in the world, the more you will augment my pleasure; for I do assure you, with the greatest sincerity, that the prosperity of no man on earth, my brother not excepted, ever gave me more satisfaction than your own. Will you oblige me by begging your lady, in my name, to accept the tender of friendship from a man who once enjoyed a felicity like yours, and whose sole object was to make an amiable woman happy as you will make her?"

Fortunately his days were too busily occupied for the indulgence of grief. Besides the unremitting attention demanded by his principal charge, the state claim to the lands west of the Hudson, his private practice was rapidly increasing. He was always diligent in the preparation of his causes; and for some of them researches were to be made far removed from the usual field of professional labor. But no efforts were too arduous for one of his indomitable energy of character; and his habits of industry and devotion to his legal pursuits and kindred subjects, at this time, have been especially remembered

One of his earliest important cases after leaving the bench, of which we find any particular notice, was that of the Rev. John Murray, generally called the father of Universalism in America, against the parish of Gloucester, for his salary. Murray had been earlier a disciple of Whitefield, in London; and, through the influence of Rely and his own careful study of the Scriptures, while still retaining the doctrines of the trinity, had become converted to a faith in the universal salvation of mankind by restitution through the Saviour. His views were somewhat modified by a further examination; but he never professed any belief in that intermediate state of limited punishments which has been a favorite tenet with many of his sect, considering sin sufficiently punished in this world.

In consequence of his new views Murray was expelled from the tabernacle; and, grievously afflicted by the loss of his wife and son, came to America, in 1770, intending to pass the rest of his days in seclusion. Upon landing in New Jersey, he was easily persuaded to reascend the pulpit; and the fame of his eloquence, and of opinions boldly asserted, which flattered their pride and quieted their anxieties, attracted crowds of listeners in New York, Philadelphia and Newport. In the autumn of 1773 he made his first visit to Boston, and, at the solicitation of his friend, Thomas H. Peck, preached at intervals in the factory at the corner of what is now Hamilton Place, at Faneuil Hall, and Croswell's meeting-house, till about the time of the battle of Lexington, when he was violently assailed at the latter place by a mob, who broke the windows of the building — one of the stones, and that a heavy one, striking his pulpit. During the siege, he was appointed by Washington, upon the request of Generals Greene and Varnum, and against the remonstrances of the other chaplains of the army, preacher to the three Rhode Island regiments. The exemplary performance of his duties inspired respect both in officers and men, which

was shared by the commander-in-chief. "Every morning at seven he met the several regiments on parade. Gradually the habits and the rough manners of the soldiery yielded to his christianized eloquence; and his success in the army was indeed wonderful." His own practice did credit to his precepts; and many instances are recorded of his zealous benevolence in aid of the sick and the feeble.

Want of health soon compelled his resignation; and, being established at Gloucester, several distinguished converts, in 1780, built for him a church. The Calvinists, regarding his denial of eternal damnation as striking at the very foundation of Christianity, excommunicated in form his followers from the orthodox fold, while disputing their right to appropriate their assessments for public worship to the support of their own society. The third article of the bill of rights provided that individuals might pay their taxes for the maintenance of any public Protestant teacher of piety, religion and morality, of their own sect, provided there was one in the town on whose instructions they attended; otherwise they were to be paid to the established preacher of the parish or precinct in which they resided.

In order to bring the controversy to an issue, suit was brought in the name of Mr. Murray; and the question, involving the religious rights of the Episcopalians, Baptists, Presbyterians, Sandemanians and Quakers, denominations which were then called sectaries in Massachusetts, being now for the first time agitated under the constitution, attracted general attention. It was repeatedly on trial in the inferior and supreme courts, upon appeal, new trial and review, at Salem and Ipswich, in 1783 and the three following years. Rufus King, who had been at first retained, and had argued the case with an oratory described as "persuading, commanding, and, like an irresistible torrent, bearing down every obstacle," removing to New York, Judge Sullivan was engaged in his place. In his

letter to Mr. King, of the twenty-fifth of June, 1785, he gives the following account of the first trial:

"On Wednesday last was tried the case of John Murray against the inhabitants of the first parish of Gloucester. The cause was opened by Mr. Tudor, and closed by me, Mr. Bradbury and Parsons for the parish. Many exceptions were taken to the form of the action; but the three judges present, Sewall, Dana and Sumner, agreed the action to be well brought. On our part, we proved that the society under the teaching of Murray were a sect different from [Calvinists], by denying the external rite of baptism. We rested it there. The court thought we ought to prove him to be a teacher of piety, religion and morality, to entitle him to the action. To this we agreed, and therefore produced evidence that he professed to teach the Christian religion, which we thought to be a moral system, and that the persons whose taxes were in consideration attended upon him as a teacher of morality, and were content to submit the cause. Upon the other side they moved to prove that his doctrines were opposed to morality because he denied punishment in another world. To this we objected that, although we were obliged to prove him a teacher of morality, yet they would not go so far as to bring before a civil tribunal the question whether the motives of rewards and punishments in another world were such as would induce piety; for, should we once launch into that inquiry, there would be no end to it. For, suppose the clergyman in suit was an Episcopalian, one of the thirty-nine articles might be produced against him, which, perhaps, he had sworn to, holding up the idea of election and reprobation, which would be deemed by those who dissented from the doctrine to be opposed to every incentive to virtue or determent from vice. All Calvinists were involved in the same observation; the Hopkintonians worse, still worse; and it might even be said of the Arminians that their distinction be-

tween foreknowledge and predestination was derogatory to the perfection of the Deity; and so no end could be had to the disquisition. The court were, however, against us, and, in summing up, or rather arguing the cause, gave it as their full opinion that no teacher but one who was elected by a corporate society could recover money paid by his hearers to the teacher of the parish. This excludes, you will observe, the Episcopalians, Baptists, Quakers, Presbyterians and Sandemanians, from all benefit arising from the third article. The jury thought otherwise, and gave us a verdict. John Tracy, foreman."

It will be observed that upon this trial he obtained the verdict of the jury in direct opposition to the instruction of the judges. When the cause was heard upon review, a year after, the bench had changed in opinion. Murray was in Cumberland at the time of the last trial, and the following account of it was sent him by a friend:

"Last Tuesday our party, with their cloud of witnesses, were present, and called out at the bar of the Supreme Judicial Court. The cause was opened by Mr. Bradbury, and replied to by Mr. Hitchborn; and then the court adjourned to the succeeding morning. I arrived just in season to hear it taken up by Mr. Parsons, and closed by Mr. Sullivan. I wish for an opportunity to render my acknowledgments to this gentleman. He displayed upon this day an eloquence not less than Roman. The judges summed up the whole. The first was ambiguous; the second was so trammelled, and so inarticulate, as to be scarcely understood; but the remaining three have acquired a glory which will be as lasting as time. The conduct of Judge Dana attracted particular notice. You remember that he heretofore labored against us. There appeared a disposition to traverse our counsel. In his comments on the constitution, those parts which made for us he turned against us; he asserted that the tax was not persecuting, but legal; religious societies were bodies corporate, or meant to be so; sect and denomination were

promiscuously used and synonymous; and the whole was delivered with a sententious gravity, the result of faculties laboriously cultivated by experience and study. But a revolution had now passed in his mind, and when he noticed that article in the constitution which directs moneys to be applied to the teachers of his own religious sect, he said the whole cause depended upon the construction of that clause. He had theretofore been of opinion that it meant teachers of bodies corporate; he then thought otherwise. As the constitution was meant for a liberal purpose, its construction should be of a most liberal kind. It meant, in this instance, teachers of any persuasion whatever, Jew or Mahometan. It would be for the jury to determine if Mr. Murray was a teacher of piety, religion and morality; and that matter, he said, had in his opinion been fully proved. The only question, therefore, before them was, if Mr. Murray came within the description of the constitution, and had a right to require the money. 'It is my opinion,' he decidedly declared, 'that Mr. Murray comes within the description of the constitution, and has a right to require the money.' The jury received the cause, and departed the court at half past three. In the evening they returned, with a declaration that *they could not agree*. The chief judge ordered them to take the papers and go out again. They continued in deliberation the whole night. Thursday morning they came in again, declaring their unanimous agreement that the judgment obtained the preceding year was in *nothing erroneous*. Thus have we gained our cause, after trials of such expectation and severity. We rejoice greatly. 'It is the Lord's doings, and marvellous in our eyes.'"

This was one of a series of causes in which Sullivan defended the important principles of religious liberty. Evidence exists of his previous attention to the subject of controversial divinity. The studies required for preparation in this case were frequently called into use for other

ecclesiastical causes, which were of frequent occurrence while he was at the bar. It seems probable the investigations they involved of scriptural authority may have brought about that modification of his early religious tenets to be particularly mentioned hereafter.

A storm was now brooding over New England, which was to awaken in all the profoundest anxiety for the future welfare of our infant republics. War had broken up, or greatly interrupted, most of its business occupations. Great Britain, closing her ports by navigation laws and prohibitory duties to American productions, crowded our markets with her own fabrics, and, thus turning against us the balance of trade, gradually drained the country of its substantial currency. Industry was deprived of employment, and property depreciated. The war debt of Massachusetts, when reduced to legal standards, still amounted to five millions, and her proportion of the forty-two millions due on continental loans to as much more. Public faith demanded heavy taxation, which the people, in their impoverished condition, were unable to meet without ruinous sacrifices. Private debts, both to the foreign and domestic creditor, which had been suspended during the war, were now put in suit; and processes, far more stringent and oppressive than anything we know, filled the jails, and reduced multitudes to beggary and want. In the county of Worcester, then containing a population of less than fifty thousand souls, there were two thousand actions at one time on the dockets of its Common Pleas; a number not perhaps surprising for a commercial centre, but which in a rural district indicated the utmost embarrassment and destitution.

Soldiers, returning from their campaigns with expensive habits and shattered constitutions, their early aptitudes for labor lost in the desultory occupations of the camp, felt that their toils and dangers deserved from their country, from fortune, or from Providence, some better requital

than a life of hardship and privation. Some among the less reasonable, ever disposed, when the world went wrong with them, to hold everything and everybody but themselves accountable, considered the courts and lawyers the main cause of all the public calamity. Others thought the system of government itself at fault, and the time already ripe for another revolution. Patriots, who had lately led the way to independence, had deservedly won the universal respect and gratitude of their countrymen; nor were there wanting many who, from excellent motives, but from an utter misconception of the case, were quite inclined to emulate their example. No one could remember under the king any similar complication of distress. If former times demanded change, how much more the present, when there was no bread for the hungry, when the family farm was under the hammer, and the prisons crowded with officers and soldiers, who, in the late contest, had freely shed their blood for their country? The growing discontents, first expressed in moderated murmurs through the press, gained strength from the slightest opposition, and, spreading rapidly throughout society, especially in the northern and western counties, more than one third of the whole population became in time disaffected towards the government, and ready to break out into open rebellion.

Such was the troubled state of public feeling in Massachusetts at the opening of the year 1786. Controversies, often flaming into angry altercation, upon the necessity and proper methods of sustaining the public credit, and upon different theories of government, with a view of devising some more efficient substitute for the articles of confederation, filled the journals. In certain essays upon the latter topic, entitled *The Free Republican*, first published in the *Boston Magazine*, commending the checks and balances of the English system, their author spoke of lawyers as a necessary order of society. Irritated by incessant litigations, and the exhaustion of their substance in fees and

coasts, while this class alone were growing rich, the sufferers were quite disposed to question whether the profession were actually even a necessary evil, and not rather an antiquated instrument of oppression, which ought to be abolished. Many able writers, in the capital and other parts of the state, encouraged this sentiment; and among them, with good intentions, doubtless, but from a serious mistake as to the tendency of such opinions, Counsellor Gardiner, whose prejudices against his legal brotherhood had been formed while a practitioner in England, and who since his arrival here had broached projects of reform not relished by his new associates. With him was connected in this warfare Benjamin Austin, junior, who, at his imputed instigation, now, over the signature of Honestus, inveighed in forcible language both against the bar and the legal tribunals.

Mr. Austin, by his essays on trade, signed Friend to Commerce, and by his diatribes, as Brutus, against the tories, had already become well known as a writer. His family was distinguished in revolutionary annals. His father had been an influential member of the Council when clothed with executive powers before the adoption of the state constitution, and his brother had been sent to Europe with the tidings of Burgoyne's surrender, which led to the French alliance. From his freedom and fearlessness in assailing whatever was opposed to his particular views of public policy, he often provoked a disposition to retaliate; and abuse long continued, even where wholly unmerited, affects reputation. But no one can read his many able and eloquent essays, signed Examiner, and Old South, or those over his more familiar pseudonym of Honestus, without giving him credit for sincere patriotism.

At this particular conjuncture, however, little being needed to kindle the country, in its feverish condition, into a rebellion, these essays of Honestus were exceedingly ill-timed. Had his aim been confined to reform in points

deservedly open to censure, there could have been no reasonable ground of objection to his course. But his sweeping denunciations of a class embracing among its ranks some of the most honorable, patriotic and useful, members of society, were calculated to injure, not the profession alone, but the public. Among others who resented this unmerited reproach upon the fraternity were several of the more eminent of their number, who ably defended, over the signatures of Lawyer, Lælius, Twig of the Branch, and Democraticus, the existing system. From a natural *esprit de corps*, Judge Sullivan took part in the discussion, and wrote, in reply to Honestus, a series of three articles, signed Zenas; a signature he had frequently assumed during the war, and one by which he was well known. He reviewed the history of the legal profession in other times and countries, and vindicated the importance of the institution to the maintenance of social order and the security of private right. He betrayed some asperity towards his antagonists, but evidently from an impression that their sentiments were not only irrational, but, at that particular conjuncture, also fraught with danger to the public peace. These he followed up, the following year, by others on the same subject, signed Tully.

However much these clever productions of Honestus may have contributed to aggravate the general discontent, they were probably instrumental, in connection with the untiring efforts of Mr. Gardiner, in introducing simple and economical methods of procedure into the practice of law in Massachusetts, which have served for an example to other states and to some European nations. The previous year the legislature had authorized any one to argue his own cause, at the same time providing that no person should be admitted an attorney unless properly qualified. Great efforts were now made to have that law further modified, so that all who felt inclined should be permitted to practise, and to have what was called the bar-call utterly

done away. The fee-bill was reduced, but the movement was in other respects successfully resisted till the spring of 1790, when it was further enacted that parties might empower, under seal, whom they chose to manage their causes, whether regular attorneys or not.

As Zenas was easily identified, and the other champions for the profession could only be conjectured, he was singled out by its assailants for more than his share of abuse. Their supposed leader, who had returned to Boston since the peace, and engaged in practice, from his superior advantages of education at Glasgow and in the courts at Westminster, was somewhat dictatorial; and Judge Sullivan, not one who would meekly admit the pretensions of a comparative stranger to control, became an object of his dislike. He had further offended him by opposing the immediate admission of his son, or himself, to full fellowship with the elder members, without compliance with the rules, as would appear by the following lines from a satirical poem of the day, defending Zenas from his attacks :

“ Has Zenas dared to contradict thy will,
Or check the torrent of thy seven-mouthed quill?
Has he opposed thy proud attempts to join
The long-robed gentry formed in legal line?
Say, did his arm the dreadful barrier frame,
To bound thy hopes of more than deathless fame? ”

Hostility on one side provoked retaliation on the other; and a long epistle in verse to Zenas was published at the time, which has much merit. It was attributed to the younger Gardiner, supposed to be referred to in the above verses, and who afterwards became a distinguished divine. Allusion is made without scruple to these ancient quarrels, since, measured by then existing standards, and explained by the provocations out of which they grew, while reflecting little reproach upon the parties, they serve to throw light upon subsequent events.

Meanwhile, in the interior counties, disaffection was

rapidly spreading. County meetings were called, and numerously attended. Their list of grievances was long, and not very reasonable. They complained of the great amount of the impost and supplementary taxes granted to the general government, and this before our claims in offset had been allowed; of our enormous state expenditures and heavy salaries, of British influence, of increasing tendencies to aristocracy, of the senate and the courts, of costs and lawyers, of Boston as the capital, of the great want of a circulating medium, of the non-redemption of the depreciated paper, and of the impaired state of the public credit. Many of these were undoubtedly great evils, but they were for the most part not within the reach of legislation.

The first appearance of armed rebellion was in August, at Northampton, when fifteen hundred men took possession of the court-house, and the sessions of the courts in several other of the counties were prevented by large numbers of men in arms. In Worcester, Artemas Ward, who had been general-in-chief of our army at Boston before Washington, appointed on the continental establishment, superseded him, was the chief justice of the Common Pleas, and by his gallant and dauntless bearing, and the eloquence of his appeal to the better feelings of the mob, was enabled to prevent immediate acts of violence, if not successful in persuading it to disperse. At the same period, in the neighboring state of New Hampshire, the spirit of disorder, if not as intense as in Massachusetts, was widely extended. Instead of being directed against the courts, an attempt was made to coërcé the legislature. Some hundreds of men, armed and organized, surrounded the meeting-house at Exeter, where the legislature was sitting in convention, and having first sent in petitions demanding remission of taxes, the issue of a paper currency, and relief for their various discomforts, crowded into the building. General Sullivan, the president of the state, who was presiding over the convention, addressed

that body, stating the reasons why these petitions should not be entertained, and showing their unreasonableness and inconsistency. He declared that no demands, accompanied by threats of violence, ought ever to be complied with, and that no considerations of personal hazard should render the legislature forgetful of its public duty. His speech was cool and deliberate, but only served further to exasperate the insurgents, who, as soon as it was concluded, retired from the hall. They surrounded the building with sentinels, and the members were assured that they should not be permitted to retire until all demands were complied with. The convention adjourned at the usual hour, and when General Sullivan attempted to leave the house, his progress was barred by the bayonets of a close column of the rioters. A cry was raised to fire upon him; but he composedly told them he had had too much experience of powder to be afraid of theirs. In a speech of some length he expostulated upon the madness and folly of their conduct, telling them that it could only bring ruin upon themselves, without tending in the slightest degree to accomplish their objects, and that they would be resisted by the whole force of the government while he continued at its head. At this moment a cry was raised, by some of the citizens of Exeter, that a body of artillery were approaching, and the rioters retreated. The legislature resumed its session, and, under its authority, the president collected in the course of the night several hundred men, who, attacking the insurgents, secured forty of them prisoners, and put the rest to flight. Pardons were granted to all who were taken, and the insurrection was suppressed without bloodshed or injury to any one.

Judge Sullivan had frequent opportunities, in his professional practice, to watch the growing storm, and to realize the danger that impended, and he was not backward in lending all his influence and efforts in support of the legally constituted authorities. When the first tidings of the out-

break reached the capital, they created profound consternation. A day or two after appeared in the Centinel the following sensible views from his pen on the subject of the discontents :

“ HINTS ADDRESSED TO THE SERIOUS CONSIDERATION OF THE PEOPLE OF THE COUNTIES OF BRISTOL AND MIDDLESEX. — The good people of this state are groaning, as they imagine, under innumerable burdens, which they impute to the mal-administration of government. Their complaints, I doubt not, are some few of them well-founded. But before they proceed to extremities in demanding redress, let them carefully discriminate between those evils which exist in reality and such as are only imaginary. Let them first investigate the true cause of their troubles, and impartially examine whether the chief sources do not centre in themselves. The fact is, luxury and extravagance have long since been tamely suffered to banish industry and frugality from their peaceful seats, and reign with unbounded sway.

“ The fair daughters of America, who were once contented to sit down and sing all day to their spinning-wheels, who were proud of their ability to appear in the modest apparel wrought with their own hands, are now ambitious only to be flaunting in their lutestrings and brocades ; and Columbia’s hardy sons, who knew not the source of corruption, but boasted of their independence in being able to feed and clothe themselves with the fruit of their own soil and the labor of their own hands, are ignobly sunk into venality and idleness. It is true we are burdened, but mostly by our own laziness and extravagance.

“ There seems at present to be a general dissatisfaction throughout the state. Whether it is with or without cause, let us not rashly apply a remedy that may prove more fatal than the disease. If we are in pain, let us not trust in our own skill, but rather apply to the power which *we think*

has inflicted the wound, and which *we know* is best able to give relief. Then let economy and application to business resume their seats, and all will be well again.

"How much soever we may be oppressed, we cannot be oppressed by justice. Why, then, should we wish to stop its execution? If we have honestly involved ourselves either in public or private debts, let us as honestly discharge the obligations we have voluntarily contracted. We have nobly bled for our liberty, and finally obtained the victory; but, at the rate we are about to use it, God knows it cannot be much preferable to slavery. Liberty is in itself a most valuable blessing; but there is as wide difference betwixt liberty and licentiousness as there is betwixt liberty and the most abject slavery. The free-born sons of America begin to confound these in practice, if they do not in idea. They seem to think that to enjoy liberty is to live independently of all laws, both divine and human; that each one should have a code of laws written in his own breast, and adapted to his own convenience. But, friends! correct your error before the tyrant's herald shall proclaim it too late. Be assured that by your turbulence and sedition you are preparing a yoke for your own necks, and heaping millions of burdens upon those which you now think too grievous to be borne.

"Whoever lives to see but a few years more, must either see liberty used in a more rational manner, or expiring in the hands of a tyrannical master. Where, then, will be your much-boasted independence? Alas! it will have fled for refuge to a more secure asylum. Then will you learn the value of your liberty by its loss. Then, instead of going out at your pleasure, and returning in safety, you will have it said, '*Hitherto shalt thou go, and no further.*' Thus much shalt thou possess, and no more.

"Whilst we now have it in our power to show ourselves worthy of the name and privileges of Americans, let us not become a prey to lawless ambition, or the sport of contend-

ing powers. Whilst we maintain inviolate our rights and privileges, let us not give our liberty wings to fly away. That freedom which was purchased at the price of the blood of millions of our friends and countrymen, is too dear to be abused, and is most certainly worthy of our careful preservation. MY COUNTRYMEN! be not only free, but be wise and virtuous. Then will you enjoy the fruits of your native soil in peace and quietness. Then will you rejoice in the name of Americans, and not until then will you be happy."

On the same day a meeting was called at Faneuil Hall, over which Samuel Adams presided, and a committee appointed, to which the moderator was added as chairman, to draw up an address to the governor, and a circular letter to the other towns of the state, to report on the following Monday. Judge Sullivan was the first named on this committee, and, as the latter paper in the city archives is in his handwriting, it was probably principally or wholly prepared by him. It is calm and dispassionate, appealing to the better judgments of the insurgents, and well calculated to allay their feelings of irritation. It is too long for insertion, but will find a place in another volume.

In a letter from Dr. Thacher, dated the fifteenth, to Lieutenant-Governor Cushing, then a delegate to the convention at Annapolis, giving a full and interesting account of the disturbances, after praising the course taken by Mr. Adams, he says: "The lawyers hang aloof, except Sullivan, who has done well, and appear to be waiting for an opportunity to secure themselves, or to unite in the dissolution of the government." To set an example to others, Judge Sullivan shouldered a musket and joined a volunteer company, and would have proceeded with it to the field of operations, had men been wanting for the purpose. During the autumn he was engaged with the western land claim, and in November was obliged to pass through the disaffected country on his way to meet the other commis-

sioners at Hartford. When the controversy with New York was happily brought to a termination in the middle of December, with Lowell, King and Parsons, he again slowly traversed the state from the Connecticut to the capital.

To a people accustomed to excitements there was something fascinating and infectious in the general turmoil. As the season advanced, and the crops were harvested, multitudes, mounting the sprig of evergreen, the badge of rebellion, collected together in tumultuary assemblages around their adopted standard,—a pine tree cut for the purpose,—and, by exaggerated details of the real or imaginary grievances of themselves or their neighbors, added fresh fuel to the discontents. Among them were many revolutionary officers, who were called upon to form the masses into companies, and instruct them in military science. In December more than a thousand were collected at Worcester, well armed and disciplined, under Captain Daniel Shays, formerly an officer in the continental establishment, as their commander; and several hundred more, further west, under Luke Day and Eli Parsons.

Upon the earliest intelligence of the disturbances, Governor Bowdoin called an extra session of the legislature, to meet in September. With a wish to give time for reflection, and spare, if possible, the effusion of blood, conciliatory measures were adopted: the costs of law-suits were diminished, a tender act passed, and taxes authorized to be paid in produce or other property, upon appraisement. The court, with great reluctance, and after long debate, suspended the act of habeas corpus; at the same time promising pardon to all who should, within a given period, signify their intention to obey the laws.

Samuel Adams, then president of the senate, having asked Judge Sullivan's advice as to the proper measures to be pursued, he addressed to him, on the twelfth of October, 1786, the following letter: "My interest in the state,

independent of any use I may have been of in the late revolution, may apologize for my intruding my sentiments upon you in this day of public distress. I do not conceive that the Court of Common Pleas is a grievance, or even an inconvenience sufficient to raise the present commotions. There can be no substitute that can give satisfaction; and an attempt to find one yields to the insurgents, and overturns the government. Nor do I consider the suppression of the habeas corpus, on the other hand, to be of importance. Let me, to save your time from being wasted by me, only say that it is my opinion that an act ought to be reported and passed for the following purposes: 1. For pardoning all, or nearly all, the late insurgents. 2. Declaring such insurrections, in future, high treason. 3. Providing a trial for such offences in such counties as the General Court shall order. Let this be accompanied with a resolution, separate from the act, declaring such commotions rebellion, and requesting the governor to call out the force of the state to quell them in future; and let an act be reported providing a system of law-martial, not to control the persons or property of the citizens, and only to be exercised on the militia when called out by the governor. Let this be accompanied by another resolution, declaring that the General Court will attend to the petitions of the people in their several towns, and redress all grievances which the powers of government can redress. I could wish that the idea of a county convention being a legal body could be exploded. I will only add, that I believe such decisive measures will save our freedom; while, on the other hand, temporizing will inevitably overthrow the constitution."

Upon reference to the statutes and resolves which soon after passed the Court, it will be found that many of these recommendations coincided with the views of other men of influence, and, adopted, contributed to allay the angry

feelings which, at the time, were threatening to drown in blood our infant liberties.

James, the eldest son of Judge Sullivan, had graduated with credit at Cambridge the preceding summer, taking for his commencement theme the proposed federal constitution. Upon the outbreak of the disturbances he had joined a company of light-infantry, raised to act against the insurgents, of which Harrison Gray Otis was commander, and Thomas Russell and John Gray lieutenants. Being the tallest man in the company, though only seventeen years of age, he was appointed first sergeant. When, towards the end of November, it was rumored that the rebels intended to obstruct the sitting of the court at Cambridge, the cadets and light-infantry were stationed at the Charles River Bridge, prepared for action. Soon after, Colonel Hitchbourn raised a company of cavalry of one hundred men to go into the county of Middlesex to seize Job Shattuck and other ringleaders; and James, who was an excellent horseman, and familiar with the country, volunteered as one of them.

This expedition was completely successful. After a long and disagreeable march, a great part of the way in the night and during a heavy snow-storm, they reached Groton, where Shattuck resided. A troop of horse, under Colonel Wood, of Pepperell, had already captured Parker and Page, but Shattuck had escaped into the woods. He was, after some search, discovered, pursued and apprehended, though not without a sharp conflict with one of the troop, in which much personal bravery was displayed; Shattuck having been badly wounded in the knee, and the other receiving a slight cut in the face. Groton being forty-three miles from Boston, with their direct course and the chase for Shattuck the company rode nearly one hundred miles between Wednesday morning and Thursday evening; and some of them were nine hours on horseback "without scarcely dismounting."

When the January session found the rebels only the more insolent in their demands, from the lenity of the government and their own fancied security, a force of four thousand four hundred men, by the aid of liberal contributions from patriotic citizens of Boston, was organized and placed under the command of General Lincoln. The army left Roxbury on the twenty-first of January, and, after relieving General Shepherd, who was stationed to protect the arsenal at Springfield, threatened with attack by a force under the rebel leader, Day, pursued the retreating insurgents up the Connecticut. On the third day of February, Lincoln, hearing that Shays had marched to Petersham, left Hadley at eight o'clock in the evening, and, after a night-march of thirteen hours, part of the way over high hills and in a violent snow-storm, reached that place, over thirty miles distant, at nine o'clock the next morning. Many of his men were frost-bitten, and all exhausted by this long march. But the rebels, panic-stricken at their unexpected appearance, dispersed without a shot. One hundred and fifty were taken prisoners; and the general, following up his advantage by vigorous measures, in a few months entirely quelled the rebellion.

After the scattering at Petersham, commissioners were appointed to go into the disaffected counties and receive the submission of those who had been in arms. Many of them, conscious that their guilt deserved no mercy, and fearing the vengeance they had justly provoked, fled from the state. Nearly eight hundred acknowledged their error, and, promising good behavior for the future, swore to obey the laws and support the constitution. A few of those who had been arrested were released, as being too feeble to be dangerous. The ringleaders were put to their trial. Fourteen were convicted of treason, and many more of sedition. In order to induce those who still continued refractory, and, along the New York and Vermont borders, improved every opportunity of committing acts of vio-

lence within our limits, to come in, and, upon submission, receive their pardon, that they might save their friends from the scaffold, the fate of the condemned was kept long in suspense. From the evidence offered at the trials, the merits of each case were familiar to the public, and the subject of constant discussion. They were repeatedly under consideration in the Council, and carefully examined. Day after day was appointed for the hangman to do his duty; but the executive clemency as often interposed, and reprieves were granted on the eve of execution, or at the foot of the gallows. When at last it became apparent that the crisis had past, and that no good end could be answered by further severities, some were pardoned, and the sentences of the others commuted, bonds, generally in the sum of two hundred pounds, being taken for future good behavior, where there appeared particular reason for distrust.

Thus the government, by its wise and moderate measures, aided by the support of an enlightened community, was enabled to crush a dangerous rebellion, and to reclaim its disaffected citizens, without recourse to capital punishment. We had learned at little cost the important lesson not to look to any system of laws short of the divine providence for immunity from social evil, and to rest contented with such approach to perfection as had been vouchsafed in our institutions as they already were. The opinion has been frequently expressed that secret influences planned, sustained and directed, the measures of the ostensible leaders; and that the insurrection, instead of being the mere expression of a discontented people, laboring under insupportable burdens, was the work of unhallowed ambition, concealed studiously from view, and aiming, through the instrumentality of humbler agents, at the overthrow of the government, in order to rise to power upon its ruins. Had this been so, suspicion long since would have assumed a shape more definite, and time, the touchstone of truth, laid bare the machinations of these secret Catilines. Shays,

brave but unstable, prancing on his white horse, with his aids and his music, at Worcester and at Rutland, had no other pretension as a leader than his own unlimited vanity.* Job Shattuck, the Jack Cade of the insurgents, if he did not equal his prototype in wit, far surpassed him in vulgarity; and his utter want of honesty disgusted even his own followers. In one of his declamations he proposed that debt should be abolished, and they should all begin anew. But this sentiment found little favor, when some one exclaimed that it would answer nicely for Job, who had lately bought two farms on credit, and had not paid a farthing for either, but be far less pleasant to the man who had sold them. The disorders of the time can be so easily traced to obvious causes upon the surface, that there is little reason to suppose that any less creditable existed underneath.

The annual elections were approaching. Hancock had returned from Congress in the summer of 1786, and was now put in nomination for the chief magistracy, in opposition to his ancient rival. Bowdoin, by his prudent and vigorous measures in quelling the rebellion, had won and deserved all praise. But those interested in the fate of the captive insurgents thought their chances of pardon would be increased were Hancock in the chair. His election was zealously promoted by Judge Sullivan, whose

* Shays, brought up on a farm, and uneducated, gained some reputation by his intrepidity at Bunker's Hill, at Saratoga and Stony Point; and when on recruiting service, having induced men to enlist on condition that they should be permitted to serve under himself, he had procured, in 1779, a commission as captain, dated back to January 1, 1777, but was discharged from the regiment of Colonel Rufus Putnam in 1780. Upon the first discouragement of the rebels he made overtures to the government to abandon his comrades to their fate, upon assurance of personal safety; and, when he supposed his propositions were rejected, persuaded his followers to refuse the proffered mercy, and continue in a useless struggle, to purchase, by their sacrifice, security for himself. Shays was pardoned, and removed to Sparta, New York, where, after a life of extreme poverty, he died September twenty-ninth, 1825, at the age of seventy-eight.

professional exertions for the prisoners had made him a favorite with their friends, and his support was said to have influenced a large proportion of the eighteen thousand votes thrown for the successful candidate. The canvass was warm, and the newspapers particularly bitter. Cushing, Samuel Adams and General Lincoln, were all in nomination for the second post; and Mr. Adams, who advocated the claims of Bowdoin as governor, used his influence to effect the reelection of Cushing. Another supporter of Governor Bowdoin was the celebrated Laco, whose first appearance in the Centinel, in this canvass, was on the same day with that of Junius, a signature now adopted by Judge Sullivan.

When the prisoners were arraigned, the courts had assigned them such counsel as they chose to select; and Judge Sullivan, although declining to defend Shattuck, undertook, with Levi Lincoln, the defence of Gale and Chamberlain, who were convicted of the charge of treason; and, with Judge Dawes, that of Livermore, who was acquitted. Numerous petitions to the executive for pardon were made by the condemned, and their counsel were, it is probable, employed to draft them.

In a letter to Rufus King Judge Sullivan says: "At Concord brother Parsons, who loves Governor Bowdoin, and hates his successor, raised a party, and made a plan for the then Governor Bowdoin to leave the unhappy convicts in the hands of Hancock; and this was done to throw the odium of their execution upon him. The arguments used by the government to the Council were that reprieves had been refused, and that, by the twenty-first of June, the condemned would be better prepared, by the operations of divine grace, for their doom. They now petition, and say that the work is only partially accomplished; but, from their own tardiness, or some other cause, they want three weeks more. Parsons says, unless the prisoners are now executed speedily, the commonwealth is undone; and brother

Sedgwick, that the state must be saved by their fall, or fall by their liberation. Yet he petitioned and wrote, with Bacon and others, to the late governor in their favor, and absolutely declared, in his letters and petitions, that it will be for the public good to pardon Wilcox and Austin. The supreme executive has not yet considered the matter; but my private opinion is that all the convicts will be paraded at the gallows, McCulloch and Austin pardoned, and the others reprieved for the present. The General Court, last evening, passed an act granting an amnesty to all unconvicted insurgents, excepting nine, and ordered eight hundred troops to be raised. Should these measures reclaim all but the nine, they may be pardoned; otherwise they may suffer. I believe that the government will be supported, but all appears to me in vain, unless you make the united states a nation."

The position of Sullivan, who had been chosen one of the Council, gave him abundant opportunity to befriend these misguided men, for whose unhappy condition he naturally felt the greater sympathy from having been employed in their defence. It was made a subject of reproach to him, by his political enemies, that he had endeavored to procure the signatures of influential individuals to Shattuck's petition for pardon; and his opinion given in Council upon the case of Parmenter, who, at the time of his capture, had killed Walker, near Bernardston, was published in the Chronicle. It shows him to have been consistent in advocating clemency; and the speedy restoration of the state to tranquillity conclusively proves this to have been the true policy. It was as follows:

"This question is one of grave importance, not simply as involving the life of this individual citizen, but because, if a pardon be granted, the reasons upon which it is issued may demand a similar decision in favor of three other persons, all under sentence for the same crime, and whose cases have been also moved for consideration.

"Parmenter has been convicted of treason. His indictment is in the form commonly used in such offences; but it has been suggested abroad that he has also been guilty of murder. There is nothing in the record of the process which intimates this. Every indictment found against persons for the late rebellion was in the same form with that against him. I have examined the evidence as far as I have been able, and believe that, had he been tried for murder, without any idea of his having been engaged in rebellion, the killing of Walker would have been found but manslaughter at most, as it was a rencontre between the parties, begun by Walker, who discharged his fire-arm at the same moment, or rather before, Parmenter discharged his. But, even if he has been guilty of murder, the pardon for the offence for which he is now under sentence would be no pardon for that crime.

"For all measures intended to make a deep impression on the public mind there is a critical moment. If that be not improved, the desired effect can never be produced at any subsequent period. To suppose that his excellency the late governor, and the honorable gentlemen of the board, postponed the execution of these sentences that others might finish what they had begun, or to throw a disagreeable task upon their successors in office which they wished themselves to avoid, or that an odium might rest upon the man or men who should complete by public executions a system they had raised but had not firmness to support, would be an imputation on their characters. That the postponement was from any doubt of the legality of the trials, was not by them suggested. If they were actuated by the last mentioned reason, it still remains in force. That it was because reprieves in such cases are usual, cannot be pretended, since this is the first conviction for high treason in the country, and to obtain it the court were carried up in a difficult and inclement season for the avowed purpose of making immediate examples.

"The benefit of the act of indemnity is extended to all except nine of those not yet brought to trial. Amongst them are many more atrociously guilty than those who are condemned. It is true that the latter have been apprehended and brought to trial; but this adds nothing to their guilt. A provision is made in the act that the indemnity shall not be construed to extend to persons convicted of crimes. And, indeed, no act of that nature could be so extended, since the power of pardoning, after conviction, is by the constitution lodged with your excellency and honors.

"These measures having been adopted by the legislature, and it appearing the wish of many thousands of the people that these unhappy commotions should be settled without further loss of life; when, upon resort to the example of the best governments, it was found that other states, and even Britain, whose sanguinary disposition daily gluts the grave with legal consignments, furnished examples of clemency in cases such as this, your excellency, with advice of Council, respited the execution to the twentieth of this month. But even this measure was adopted in a way effectually to test the strength of government. Every preparation was made, in the county of Hampshire at least, for a serious execution; yet this parade of death was so far from exciting opposition to legal authority, that a gloomy silence and solemn awe at the power of the government were universally exhibited.

"I do not mean to suggest that the Council were unanimous. Some gentlemen, who advised the late governor to postponement, have, it is said, uniformly urged your excellency against a pardon. Yet those who were then in favor of deferring execution of the sentences cannot but consider themselves now under the most solemn obligations to counsel clemency; since it was a sort of compact, if not on the part of government, at least binding on councillors who advised to the measure, that, should it appear by the

subsequent conduct of the insurgents that peace and tranquillity could be restored without sanguinary examples, a pardon should be granted.

"The act of indemnity was limited to those alone who should take the oath of allegiance upon or before the twelfth of September, 1787. We are well assured that all who were the objects of the act have complied with this requisition. The wish for an issue of paper money, or for the demolition of the courts of justice, is so far from being any longer entertained by the people, that the idea is universally execrated. Order is so far restored that the troops have been disbanded.

"The late unhappy commotions do not fix the character of the people as ungovernable. They arose from an unfortunate concurrence of circumstances, with which all countries in their turns have been afflicted, but which, under free institutions, are attended by consequences peculiarly dangerous and disagreeable. It must be remembered that we had lately been in resistance to a government long established. Taxes of previous years, not heavy when they were granted, upon the sudden contraction of the currency became intolerable. Whilst specie was abundant people were prodigal of credit; but when it became scarce the property for which they had become indebted would not pay one half of the stipulated purchase-money. Law-suits multiplied, and legal bills of cost, augmented by delays at the request of the debtors, became oppressive. Add to this that there ever stand ready, at such a crisis, numberless sharpers, who improve the moment of keen distress to extort, by excessive usury, from the wretched what little remains of their substance.

"The pile thus prepared was easily kindled into a flame by gazette writers, who mistook those burdens which were the necessary price of our independence, and the security of our future freedom, for grievances which demanded redress. Under our present prospects, and in our present situation,

to recall to public view either the ideas of injury to private individuals, indignity to the government, or reproach to our country, would be neither wise nor prudent. I have no fear of new commotions from the execution of these sentences. People might murmur at the unnecessary parade of death at this late hour ; but, if I thought there would be any kind of opposition, I should be for trying the experiment. As I do not, and see no necessity of, nor public advantage from, the execution of these people, after all this suffering, and now that the state has sunk into the arms of peace and tranquillity, I am clearly of opinion we should advise his excellency to grant a full pardon to Jason Parmenter."

The Bowdoin party had been greatly disappointed at the result of the election, which they naturally considered gross injustice, after the able and patriotic course of the late administration. They were assailing their successful rivals with great vehemence, when a circumstance occurred which added fresh fuel to their resentments. In August appeared in the Gazette a letter from the supposed author of *Laco*, who had been one of the late confidential advisers of Governor Bowdoin, written to General Lincoln while on his march into the western counties. It was not in itself particularly objectionable, yet its expressions, if sufficiently decorous in the unreserved freedom of friendly correspondence, were not so well suited for publication at that particular crisis. So favorable an opportunity to make political capital was naturally improved by the partisans of Hancock. A communication, signed *A Real Republican*, commenting freely on what was deservedly open to censure, was attributed to Judge Sullivan, and provoked retaliation. Upon this he followed up the war, borrowing for the occasion one of *Laco's* own well-known signatures, that of *Oracle* ; who, not to be outdone, returned the fire under cover of *Plain Truth*, one of Sullivan's. Others took part in the conflict, and party zeal, as was often the case in

those days of political ardor, inflamed into personalities and recrimination difficult to explain without taking into view the particular provocation.

With the view of lessening his influence with Hancock, by sowing the seeds of jealousy between them, Judge Sullivan was reproached with having defended the prisoners in order to obtain the chief magistracy for himself. As a requital for his criticism on the Laco letter, various fictitious correspondence between the rebel chiefs appeared in the journals advocating his election as governor as favorable to their projects. A letter in the Centinel presents a clue to these various expedients of party warfare to diminish his popularity, and would be inserted, to show how unrelenting was the hostility with which he had to contend, did our space permit. These imputations were sufficiently unreasonable. He had taken an active and prominent part against the insurrection; and the office of governor, had he been ambitious or selfish, was of too uncertain a tenure to be, in his peculiar circumstances, an object of desire. He had no accumulation of property, and his very lucrative practice, upon which his family depended for subsistence, would have been lost by the elevation. Moreover, nothing in his past life justified the suspicion of disloyalty to any one; and least of all was he likely to be untrue to so staunch a friend as Hancock.

The privilege of choosing our own magistrates was comparatively a recent acquisition, and the more valued for its novelty. Few scruples were entertained in political warfare, and the freedom of the press often degenerated into licentiousness. Gross epithets and scurrilous abuse were freely interchanged; and many clever writers appeared to possess no other conception of honesty, justice and truth, than as convenient virtues to find wanting in adversaries they wished to defame. The principal leaders of either party, owing their position to character and merit, kept strictly within the limits of propriety. But their followers, to accom-

plish their objects, under shelter of signatures which were rarely a disguise, were quite unrestrained by any respect for facts, or regard to decorum. From his course in the affair of Mr. Temple, and the belief that his influence had been exerted to replace Hancock in the executive chair, and, what was more vexatious, had contributed to his retaining it, Judge Sullivan was a frequent subject of obloquy. Indeed, it was to be his fate, at many periods of his political life, to be well abused. If not always agreeable, this did him no harm. Virtue depends somewhat upon habit; and persons held under strict responsibility to public opinion, and conscious that their opponents are on the watch to improve to their disadvantage even the appearance of evil, become sufficiently circumspect. He was himself a constant contributor to the public prints; and, much reviled as he was, it has been remarked of him that he never condescended to personalities. He wrote with spirit and vigor, keeping to his subject; was too honest to misrepresent, and the imputation of unworthy or ungenerous motives was wholly inconsistent with his taste.

The incidents of this trying period in Massachusetts are familiar to the reader. The story has been already, in many forms, fully and eloquently told, and especially by Judge Minot in his history of the rebellion, and more recently by Mr. Barry in his history of the state. We have endeavored to avoid details not bearing upon our particular subject; but some of the more prominent seemed indispensable to make it understood. One other event connected with the insurrection remains to be mentioned, which was a source of great affliction to Judge Sullivan. It will be remembered that his son James was one of the troop who made the foray into Middlesex, and captured Shattuck. Whether he was on the expedition to Springfield in January, with General Lincoln, and shared in the fatigues and exposures of the night-march to Petersham, cannot be ascertained. But he did not spare himself; and

early in the spring was attacked with pleurisy, and sent, that he might be away from the east wind, into the country, to the house of the Rev. Mr. Whitney, at Shirley, where he died on Tuesday, the nineteenth day of June. Chief Justice Parker often mentioned a clever will, in verse, which James composed at Shirley, during his last illness, in which he made witty mention of all his friends and classmates. Unfortunately, it being *de bonis non*, to use the phrase not in its technical sense, the instrument is no longer extant. James possessed remarkable talents and gifts of oratory; and it has been remembered that, while a lad at Groton, he frequently harangued the laborers of the farm and rustic neighbors, on the exciting topics of the times, to their great admiration of his eloquence. His father had corresponded with a female relative in Ireland, Miss Nannette O'Sullivan, for whom his youngest daughter had been named, and who had proposed to adopt James. It had been arranged that, after taking his degree, he should make this lady a visit. He was much beloved, and often, in times long after, mentioned by his friends, classmates and family, in the warmest terms of affection. His most intimate companion, Thomas Greaves Russell, son of the Hon. Thomas Russell, held a commission in the light-infantry. Russell had become interested in Hetty, the sister of his friend, and, a few months later, with the approbation of her father, was engaged to her. But his constitution had been also undermined by the severity of the weather upon the winter campaign. He fell into a decline, and died in England, at the house of his uncle, Mr. James Russell, a loyalist, who adopted that country for his home.

Soon after Judge Sullivan took up his abode in Boston, probably at the period of the death of his infant daughter, the selectmen had presented or conveyed to him a tomb in the Granary burial-ground, on Tremont-street, not far from the windows of the Athenæum. In it had been formerly deposited the remains of Richard Bellingham, governor of

the colony in 1641, and for the eight years from 1665 to 1673. Those remains had long since mouldered, and the family of Bellingham become extinct in America. The tomb, no longer of service for its original purpose, either as a sepulchre or monument, had become dilapidated, and in the winter season filled with water. Judge Sullivan repaired it, and, in the brief course of two years, his wife and his eldest and youngest child were deposited within its walls. These repeated afflictions were sensibly felt by him. A miniature, taken at this period, exhibits deep traces of sadness in his countenance, then wearing an expression far different from the cheerful animation of earlier days, or the tranquil urbanity and kindness presented in the portrait by Stuart, which was taken in his later years, when governor of the state.

CHAPTER X.

FEDERAL CONSTITUTION.

WHEN the Mayflower reached the shores of New England, and anchored off Cape Cod, her pilgrim passengers, devoutly on their knees, "blessed the Lord God, who had brought them over the vast and furious ocean, and delivered them from its perils and miseries, to set their feet once again upon the firm and stable earth, their natural element." Before leaving the vessel to take possession of their land of promise, they gathered together in her cabin,* and, with full conviction of its importance to their future tranquillity, a brief but solemn instrument in writing was prepared and executed, by which they created themselves into a civil body politic for their future government. Foremost in the honored group, on this ever-memorable occasion, were Allerton and Warren, Captain Standish and Elder Brewster, Carver, Bradford and Winslow, successive governors, all grave and decorous men, who loved not contention, and who well knew that both in public and private affairs written compacts are the best of peace-makers. This was the fountain-head of what especially distinguishes the New World from the Old, constitutional liberty; and ever since, frames of government just and equal, intelligible and well-defined, have been necessities of American political existence.

* November 11, 1620.

Some nine years later, Winthrop brought to Boston the Massachusetts charter, signed by King Charles, that unfortunate monarch, who, believing in divine right, and placing prerogative above law, expiated his error with his life. Other charters from the crown, or under the grand patent, granting land and delegating powers of government, had preceded the arrival of the *Arbella*; and many more came after, crowding along the shore and extending irregularly inland, guaranteeing to the colonists within their territorial borders certain rights and privileges. Occasionally subject to misconstruction, these ancient instruments, on which depended the political well-being of each individual, were carefully studied, and, with each succeeding generation, more thoroughly understood.

Great Britain, after the peace of Fontainebleau, decided to raise a revenue from her American colonies; and her object being to pay for a war, which, greatly through their efforts, had added the Canadas to her dominions, a sense of injustice universally prevailed at this encroachment on their charter-rights. What these rights in reality were, with the whole theory of government, and the fundamental principles on which it rests, were ably discussed in the assemblies and public prints, in private correspondence and over the social hearth; and became familiar, not only to men liberally educated and in professional life, but to all the various classes of society, who were alike to share in the dangers and hardships of the coming conflict.

History had already taught them that in confederacies of small states, like those of Greece, the Swiss cantons and the Dutch republics, political liberty had been more abiding than in larger communities. Moreover, differences of institution and of habit among the colonies, growing out of their several charters, prohibited all idea of consolidation; and when their delegates in Congress declared them independent, it was as separate sovereign states. Their change of condition requiring new organizations, the deliberations

of the conventions forming their constitutions served still further to raise in public estimation the value of well-defined and written forms of government, and to familiarize the public mind with political science.

Ideas of joint nationality, of unity for defence, and in all concerns with other states and nations, everywhere co-existed with the earliest views of independence. This is distinctly traceable throughout the published writings of the period ; but that great problem by which these heterogeneous materials, uniting in chemical affinity a portion of their essential elements, were to become one compound, and yet in substance each preserve unchanged its separate individuality, required both time and thought for successful elaboration.

To meet the exigences of war and public obligations, the states, between November, 1777 and 1781, entered into articles of confederation and perpetual union, which, resting on good faith without powers of coercion, were of little efficiency while the war lasted, and of less when its dangers had passed. But the feuds and contentions among the delegates, their sectional jealousies and partisan disputes, gradually diminished confidence in the efficiency of the confederation, and strengthened the general attachment to state rights. When proposed, in 1783, to empower Congress to levy an impost, Sullivan was among the earliest to take alarm, and protest against the danger of enlarging the federal powers indirectly and by implication, instead of by first amending the articles. As, however, the war debt was on the increase from arrearages of interest, and now amounted to nearly fifty millions of dollars, twelve of which were due to foreign governments, public credit demanded for its support every reasonable sacrifice of opinion. It being found that other states were not to be induced to contribute their quotas to the common burthens in any form but this, he advocated the passage of an impost act by Massachusetts, leaving with the General Court the appoint-

ment of collectors, but granting Congress the authority to remove them. He took especial care, however, to provide that the money raised should be appropriated to the payment of the national debt, and that the powers granted should not be used to the prejudice of individual right or public liberty.

The cessions by Virginia, Connecticut and Massachusetts, of western territory, for the general benefit of the whole confederacy, had devolved on Congress a trust it had no legitimate power to execute. The vexatious commercial restrictions of Great Britain, by which two thirds of our productions found their way to market in her bottoms, and one third of their value was appropriated to her profit, demanded the adoption of some national system on our part to counteract. Difference of regulation, affecting the tenure of property and collection of debts, as to prices, exchanges and currency between the states, created confusion and distress, and awakened a general feeling that the time had come to make some change for a remedy. Governor Bowdoin in his first message suggested that immediate steps should be taken for a revision of the articles of confederation; and a few months later Judge Sullivan expressed himself as follows, upon the same subject, in the Centinel:

"It is a matter of the utmost surprise to all people of understanding, and every real friend to America, that the Americans, who are in general the most enlightened in the principles of government of any nation perhaps in the world, should institute a Congress to superintend their political interests,—by whom alone those interests can at present be promoted, and in whom only they have any pretensions to an union,—and yet deny or neglect to give them the powers necessary to answer the purposes of their institution. The reason of this preposterous conduct cannot, perhaps, be readily given or explained; but one of the most popular objections I have heard is that the ambition

of men in power is unbounded; so that, should Congress have a liberal grant, there would be danger, in time, of their assuming powers incompatible with the public liberties. But, surely, a wise people, a people who are in every sense free and unembarrassed, could so frame a constitution, and establish a government, as effectually to guard against despotism, and, at the same time, answer all its most essential purposes.

"This objection, if it be the true reason for not granting Congress sufficient powers, appears to be extremely weak, and the effect of a most unreasonable jealousy. Should some foreigner come into this country, claiming regal and despotic powers, there would be good sense in opposing his ambitious views; or were the appointment of members of Congress for life, or made hereditary, there would be just occasion for watching their steps with a jealous eye. But, so long as we maintain that fundamental part of our excellent constitution, that great palladium of civil liberty, annual elections, no nation has less to fear from ambitious views or despotic measures; for, every year, those who fill the most important stations, and by whom alone the people can be injured in their civil rights, may be divested of every mark of distinction, and return to the rank of common citizenship, and become equal sharers with their countrymen in the consequences of public measures.

"The liberty of the people does not consist in, or depend on, the withholding power where power ought to be given; but principally in the establishment of a government on a good foundation, on a constitution which shall provide for all possible cases of public necessity, close up all the avenues to corruption and mal-administration, and clearly define and recognize both the liberties of the people and the prerogative of government. When a government is thus settled, every man in power knows the length of his tether, and every citizen knows the extent of his liberties, and of what they consist. This gives security and creates confidence;

and such a government a wise and brave people can always guard and defend. But when a national administration is dependent on occasional circumstances, on the caprice of men in power, and on the ambition of men of opulence, there can be neither stability, security, nor confidence. If our political interests, if an efficient national government, are matters of indifference, nothing need be said or done about it; but if the very existence of a nation ultimately depends upon the establishment of a sovereign power, then surely the reasons for the United States investing in somebody powers coëxtensive with national concerns, must appear to be powerful and conclusive. And, as we have adopted the plan of conducting our political affairs by a Congress annually elected by the several states, it is but right, it is but what sound policy would dictate, to grant to that body full and ample powers, constitutionally settled, to conduct the public concerns of the nation without impediment. If there be reason for distrust in doing this, I cannot conceive it possible to establish any political or civil institution wherein full confidence can be placed.

"If we view the measures of Congress retrospectively, from its first institution to the present day, we may discover several marks of wisdom, fortitude, integrity and zeal, such as one would imagine were sufficient to inspire the people with a good degree of confidence. Why we should give unlimited powers to our respective assemblies in matters of national policy, wherein we can have no expectation of an unanimity, and withhold them from that body in whom alone we can hope for a union, is a solecism in politics. But, if the states are determined to proceed as they have begun, reserve to themselves their absolute sovereignty, and grant Congress only occasional, temporary and interfering powers, we have nothing to expect but that train of ruinous consequences which naturally and unavoidably proceeds from imbecility and disorder."

This was followed up by himself and various other writ-

ers; and the following year delegates met at Annapolis to endeavor to devise some commercial system for the general benefit. They were unable to agree except in recommending a general revision of the articles of confederation. In the mean time the rebellion in Massachusetts and New Hampshire had generated much distrust in the stability of our state institutions, and induced a sense of the importance of strengthening government, that it might better withstand such shocks for the future. This sentiment was not confined to Massachusetts, but extended throughout the confederacy; and many sincere patriots became painfully alive to the conviction that we might as well have worn meekly the shackles of despotism as be subjected to the mercy of ignorant prejudice or popular commotion. It was at that epoch that Virginia took the initiative; and, at her suggestion, Congress, in 1787, resolved that it was expedient the states should send delegates to a convention at Philadelphia, to meet on the second Wednesday of May following, and revise the articles of confederation. These delegates were to be chosen by the state legislatures. On the twenty-fifth of February, Judge Sullivan writes his friend, Rufus King: "The senate, on Friday last, sent down a resolve, that the choice of delegates to the proposed convention might be originated in either house, and be concurred in by the other. In this the house non-concurred; and the point is yet in litigation. Five are to be chosen. Who they will be is very uncertain. Dana and Gerry are on nearly all the lists; you are on many; Higginson and Lowell on some, and also Gorham. He objects to all lawyers; others to members of Congress. The merchants say it is all a matter of commerce, and that merchants are the men. I have the honor to be mentioned, but shall not be chosen, and should not go if I were. The choice will be this week." The delegates from Massachusetts elected were Francis Dana, Elbridge Gerry, Nathaniel Gorham, Caleb Strong, and Rufus King.

Apart from the claims of his clients on his time, his son James was sinking away rapidly under the fatal disease contracted in his late military service; and he had himself lately married a second wife, which would have made an absence from home of many months' duration disagreeable. He was chosen, in June, one of the Council of Governor Hancock; and with many more, who realized how much depended upon their labors, watched the proceedings of the convention, as far as they were divulged, with lively interest.

The convention, numbering fifty-five members, with Washington at its head, and Franklin, Hamilton, Madison, Wilson, King, Pinckney and Mason, among its leading minds, was judiciously selected for the task, and fully realized the importance of its accomplishment. All sections of the country and all shades of political opinion were represented. There were those who advocated state rights; those who favored consolidation; some, who jealously regarded every delegation of power as the first step towards an hereditary monarchy; others, who, if not prepared to give in their allegiance to the Duke of Osnaburg, quite as much dreaded the dangers of an unbridled democracy, and had but a qualified faith in the success of popular institutions. Fortunately they were men of moderation and wisdom, and sufficiently generous to make every reasonable sacrifice of private opinion and sectional jealousy on the altar of patriotism. The instrument which resulted from their labors was a compromise. The reasonable claims of the larger states were reconciled with the adequate security of the smaller. The commerce and navigation of the north, and the planting interests of the south, were conciliated by mutual concessions. Checks were devised to secure the action of the new government alike from the influence of popular caprice and from the insidious designs of crafty demagogues; and, while its conservative elements invested it with dignity and strength, the general and final control was confided to the sober second

thought of the people. Originating under circumstances so unfavorable to perfection, it seems indeed marvellous that the constitution should so well have answered its purpose. And we are tempted to believe it rather the work of a divine agency than of any mere human invention.

The convention was expeditious in concluding its labors. In September the proposed constitution was reported to Congress at New York, and the same month referred by that body to the states for ratification. On the twenty-fifth of that month Judge Sullivan wrote Rufus King: "I have this day seen the report of the convention, and cannot express the heartfelt satisfaction I have from it. I am more than pleased, having only one doubt, which is, whether the objects of the judicial power are well defined. I wish you to attend to this; for I consider it the main-spring of the whole machinery. Our people expect so much happiness from the doings of the convention, that they stand ready to adopt anything which may be offered. But this is, I think, so very unexceptionable, that I flatter myself it will meet with no opposition in this state. Some persons, to support party prejudices, have charged upon others a combination to oppose everything federal. If this scandal has reached you, you may consider it without foundation. Our parties here, or rather the opposers of the present government, are so inveterate, that falsehoods come from places where least to be expected. But our government is in peace, and I believe will remain so."

Several of the states met with promptitude the recommendations of Congress. By the commencement of the ensuing year, Delaware, Pennsylvania, New Jersey, Georgia and Connecticut, had already submitted the subject to the consideration of conventions, and adopted the constitution; three of them unanimously, the others, Pennsylvania and Connecticut, by two thirds majority.

In order to insure more entire harmony in the Boston delegation to the state convention, which was to meet in

January, it was decided to select candidates equally from both parties; and, in the list first nominated, the name of Judge Sullivan stood fourth in order; those of Hancock, Bowdoin and Samuel Adams, preceding, and that of Stephen Higginson, whose implacable hostility haunted his footsteps, immediately following his own. Before the day of election both the last were dropped, and others, more influential perhaps, substituted in their place. Though not chosen a member, it is believed that the opinions of Judge Sullivan, expressed in conversation and in his contributions to the public press, were not without weight. He was often afterwards charged as having been an opponent of the constitution; and he no doubt was opposed to its adoption without important modifications. He was especially dissatisfied with the too liberal concession to the south of slave representation, anticipating as its consequence the unfortunate dissensions so constantly since disturbing the harmony and good-fellowship of our people, and threatening the permanency of their institutions. In his opinion, besides, trial by jury was not sufficiently secured; and, brought up to attach a sacred obligation to constitutional compacts, he considered the substitution of a new system for the articles of confederation, without first complying with the forms provided in that instrument for its amendment, an illegal violation of the rights of the minority, one equally impolitic and unjust; for it was probable that, with a little delay, the general assent could be obtained. The creation of a frame of government for an empire to endure for ages, appeared, moreover, a matter of sufficient moment for full and candid consideration, and not to be hurried through under feverish excitements. Such were his sentiments, as frequently expressed in friendly confidence and in his writings. In the extreme sensitiveness generally prevailing, however, every objection urged against particular provisions of the constitution was argued to denote an anti-federal feeling; and long

after, many of its most ardent and consistent supporters were branded in opprobrium as anti-federalists, for having been bold enough to question its absolute perfection.

Some of the more zealous advocates of the instrument, believing it as perfect as could be wished, thought their chance of securing its ratification greater by discouraging discussion, and by carrying it through with a high hand. But the friends of the state administration were not generally of this mind, nor pleased that their suggestion of defects to be corrected should be met, not with candid attention, but with reproach and the imputation of discreditable motives. Before the close of the year it was evident that the opposition was increasing, and that success would be doubtful unless some compromise could be effected. In his sketch of Hancock, published at the period of his death, Judge Sullivan says: "When the plan was offered to the public for consideration, it was realized that the part which Governor Hancock should take would decide the fate of the important business as to this state. He had objections to the system, for he did not suppose it perfect, or free from errors; but he considered a general government to be the salvation of his country, and believed whatever might be found necessary to amend the system would be effected by the good sense and wisdom of the people; therefore, *before* the convention was assembled, he prepared his proposals for amendments, and resolved to give the constitution his decided support. He was chosen president of the convention, and, as soon as he was able to attend his duty, acted pursuant to the resolution he had formed."

As one of his Council and most intimate friends and advisers, as also the friend of King, Gorham, Parsons, and other leading members of the convention, Sullivan's views were no doubt respected in framing the amendments. The object was not so much to devise what could be desired, as what would be generally acceptable; and the sentiments of the other parts of the country were to be considered

as well as those prevailing in Massachusetts. Many others than those accepted were no doubt suggested, but failed to secure a support sufficiently general to be included among those adopted. Theophilus Parsons, afterwards the distinguished chief justice, is believed to have drafted them, that is to say, to have put them into form; for, according to tradition, the amendments themselves were suggested by those who thought the instrument defective, which he did not. The copy which Hancock used in the convention was said by Mr. Benjamin Russell to have been in the handwriting of Sullivan.

A statesman of the period, who had abundant opportunity of knowing the truth, says: "It is well known that the amendments, not as the condition of acceptance, but to accompany the ratification, was not a new idea, for it had been resorted to, on the acceptance of the old articles of confederation, by many states in the Union, and was suggested in convention, and before, by the friends of the governor; and it had been by none more warmly supported than by the late worthy lieutenant-governor, Thomas Cushing. It is well known, by many irreproachable characters of all professions, that this was the theme of conversation, as well with his excellency as with other persons; and, if any man besides his excellency deserves the credit of applying this happy expedient on this occasion, perhaps he was the person. It was certainly not the scheme of the high-flying federalists; though I believe many deserve not that honorable appellation, as they are not the friends of a federal government, but of an actual consolidation of the Union itself. It was in consequence of mature and early deliberations with the friends of peace and good government, with the real federalists and with the friends of republicanism, that his excellency made his celebrated proposition; and as to the circumstance of the clerkship, it was certainly very immaterial in whose handwriting it appeared, as long as it corresponded with his

own favorite opinions, as it certainly did; as it had in view the two great objects of amending the constitution, at the same time that it had a direct tendency to allay the zeal of opposition. For this act alone is his excellency deserving the thanks of every true friend of the peace and union of America. And, although no one man deserves the pre-eminent distinction of being considered as the savior of his country, yet in this point he is entitled to our full approbation, and our warmest and most grateful sensations."

The charge, preferred against those of the Hancock party who would not consent to ratification without the proposal for amendments, that they were opposed to a central government for fear it would diminish their consequence within their several states, has the less probability from the fact that the leading republicans had as good reason to expect at that period to enjoy their share of its official honors as their opponents, and probably would have, had not these opponents the policy to avail themselves of the cry of anti-federalism to secure their exclusion. Another charge thrown out for political capital, under high party excitement, that Hancock was induced to give the constitution his support from a promise, on the part of the federalists, to give him their votes at the coming election, has as little ground to rest upon. His popularity was beyond their power to subvert, and such an overture was neither consistent with his character nor theirs.

These proposed amendments were nine in number. The first reserved to the states all powers not expressly delegated; the second provided for the gradual increase in the number of representatives to two hundred; the third, that Congress should not regulate elections of senators and representatives, except where a state neglected, or her regulations were subversive of the right of the people to free and equal representation; the fourth, that Congress should not lay any direct tax, while the impost and excise were adequate, nor then unless a state neglected to pay its

proportion, according to census, of the sum required; the fifth, that Congress should erect no company of merchants with exclusive advantages of commerce; the sixth, that no person should be tried for crime, unless by indictment of Grand Jury, except in cases within the army and navy regulations; the seventh, that, in suits between citizens of different states, the jurisdiction of the Supreme Court should be limited to cases where the amount at issue was over three thousand dollars, and that of the other federal courts to amounts over fifteen hundred dollars; the eighth, that all issues of fact should be tried by jury, if either party requested; the ninth, that Congress should have no power to permit any person holding an office of trust or profit under the United States, to accept a title of nobility, or any other title or office, from any king, prince, or sovereign state.

When circumstances seemed propitious, and a sufficient number of the opposition appeared persuaded that the public welfare demanded the adoption of the instrument as all that could be hoped for, Governor Hancock, a martyr to the gout, was carried from his sick chamber, wrapped in flannel, to his seat in the convention, then sitting in the meeting-house in Long-lane, ever after this occasion called Federal-street, and proposed his articles of ratification. They were debated and committed, and a motion of Samuel Adams to add to the first article that Congress should not infringe the liberty of the press, the rights of conscience, of keeping arms, or of petition, nor maintain a standing army but for defence, nor authorize unreasonable seizures or searches of persons, papers or possessions, was rejected. The final vote resulted in a majority of nineteen out of three hundred and fifty-five votes cast. The ratification was absolute, and the amendments recommended to Congress for submission to the states under the fifth article of the constitution.*

*The month after adopting the constitution, Massachusetts passed a rigid law against the slave-trade, and another prohibiting, under heavy pains and

Maryland, the seventh state, ratified the twenty-eighth of April; and North Carolina, the eighth, the twenty-third of May. Many delegates to the New Hampshire convention, of which General Sullivan, the president of the state, was president, had been instructed by their constituents to vote against the constitution; and that body, organized in February, adjourned to June, that time might be given the people for reflection. Greatly through the influence of General Sullivan, aided by John Langdon, when reassembled they voted to adopt, recommending substantially the nine Massachusetts amendments, with a slight alteration in the seventh, and adding three others. The tenth prohibited Congress from maintaining standing armies, except where sanctioned by a vote of three fourths in each branch, and from quartering soldiers in private houses without consent; the eleventh forbade Congress passing laws touching religion, or infringing the right of conscience; and the last secured the right to the people to keep arms, unless where they were or had been in actual rebellion. It being provided by the constitution, that, upon its adoption by nine states, it should go into operation, the New Hampshire vote decided the question. Arrangements had been made between General Sullivan, General Knox and Alexander Hamilton, for transmitting the intelligence by express to Poughkeepsie and Richmond, where the conventions of New York and Virginia were respectively sitting. The

penalties, any African or negro, not a citizen, from making his abode within her limits. This last enactment was said to have been the work of her leading lawyers, who were sufficiently sagacious to foresee the dangerous consequences of that constitutional provision, which, in restoring fugitives from labor, not only threatened to disturb the public peace, but the stability of the system. It provided that any such person, not a citizen of another state, evidenced by a certificate of the secretary of the state of which he was a citizen, who should tarry in the commonwealth for more than sixty days, upon complaint to a justice of the peace, should be ordered to depart within ten days; and, neglecting, should be committed to hard labor in the house of correction. If, upon trial by jury, in next court of sessions, the complaint should be proved, he should be whipped with not more than ten stripes, and ordered to depart within ten days, and, disobeying, *toties quoties*.

latter before its arrival voted to adopt, reserving right to resume powers granted if perverted to her injury or oppression, and expressing the hope that amendments would be made. New York ratified a month later, North Carolina in November, 1789, and Rhode Island, the last of the original thirteen, came into the Union in May, 1790, modestly requesting that twenty-one changes might be made.

Congress in its first session selected, from those which had been proposed, twelve articles of amendment for submission to the states. Of these, ten were eventually accepted, which guaranteed the liberty of conscience, of the press, of assembling and petition, the right to keep arms, security against billeting of soldiers and against unreasonable searches and seizures, trial by jury, exemption from excessive bail and unusual punishments; the last declared all powers, not delegated by the constitution, nor prohibited by it, reserved to the states respectively, or the people.

It may be thought that we have dwelt too long upon the formation of the federal government in connection with our subject. It constitutes an important link in the chain of events with which he was in various ways connected, all essentially important to illustrate his public career; and, from his intimate connection with Hancock, he undoubtedly participated in the measures which secured the adoption of the constitution by Massachusetts. Had this state rejected, it was the general opinion that the requisite number of states would not have ratified; and, but for the opportunity offered to those who felt that the interests of the country demanded its adoption to quiet their scruples through the proposed amendments, she would probably have cast her vote against it. Judge Sullivan is said to have written much upon the subject of the constitution for the press,*

* A series signed Republican Federalist in the Centinel, and another signed Cassius in the Massachusetts Gazette, were ascribed to him; but the former are stated, with an air of authority, to have come from the pen of a gentleman of Plymouth. In the libraries of the Massachusetts Historical Society in Boston, Antiquarian Society at Worcester, and the Athenæum at Salem, are

and, perhaps, among the numerous series of articles which filled the columns of the papers, many were attributed to him without ground. From the beginning he expressed his approbation of the plan; and, though using every effort to have it promptly amended, he never faltered in the faith that it was the true policy of the country to adopt it.

A few years later he thus expresses his sentiments upon the subject: "When the United States assumed their independence, they offered themselves to the world as free, separate, sovereign powers. The league, called the confederation, by which they attempted to act as a nation for certain purposes, very soon lost its efficiency, and became a dead letter. Various were the schemes for a permanent union at that important crisis, filled with anxiety and alarms, and many were the speculations offered to the public eye. A mere confederation, without energy or power, was one extreme; while a consolidation of all the states to one complete, entire sovereignty, was the other. In the first were contained those seeds of discord and disunion, which would, in full growth, have rendered us the sport of the European powers, and have fixed us in a war among ourselves. In the other, the increase of our people, the extent of our country, and the pride of power in the hands of a few, exhibited all the terrors of an hereditary monarchy, upheld of necessity by an hereditary aristocracy; for the tall cedar cannot stand alone; the large trees of the forest must encircle and shield it, or its fall is certain and inevitable.

"When the public mind was agitated by these speculations, Virginia, the oldest sister of the Union, issued a proposition for a national convention to be held on this interesting subject. The fortunate event is known, understood, enjoyed. A national constitution was produced, examined, amended and established. By this system the

imperfect files of the Massachusetts Gazette, and it was necessary to examine them all to procure a complete set of the Cassius articles.

people withdrew a portion of the sovereignty which had been devolved on the governments of the states separately, and vested it in the national government, to be exercised on men and things according to the forms of the constitution; so that we now behold two sovereign powers acting upon the same subject at the same time. This novelty in the exercise of power is in the hand of experiment; and were we at this moment to form an opinion, without further process, we should pronounce without hesitation in its favor. We should vouch peace and prosperity; we should call up increase of wealth and population; we should exhibit health and happiness, public and private felicity, to maintain our assertion.

"Could we understand our present political situation as a nation and separate states; could we carefully and impartially examine it in all its nice and regular forms; could we see the beautiful connection of all its healthy and vigorous parts, which compose the unprecedented and glorious system of government which Heaven has seen fit to bestow upon us; we should view the man who would dare predict a change of it, as to its essential principles, as our most inveterate enemy. We should hold him as the common enemy of mankind; because, unless the enlightened people of the United States can support the dignity of freedom, and enjoy the blessings of free government, there is no hope left for the human race." *

On the twenty-third of July, 1789, he writes to John Adams: "I have to acknowledge the honor of receiving your letter dated the fourteenth of July. As to any opposition to the constitution of the United States, there are, no doubt, men in every society whose desperate fortunes render them alike enemies to all government; but the people, with very few exceptions, and these by no means important, consider the government of the United States as the palladium of their liberty, and a system which is, at all

* Obs. U. S. Gov., pp. 18, 14.

events, to be supported. There are in it imperfections, which we all wish to have cured, and hope that wisdom and experience will point us to the remedy. That matter of trial by juries, I must always repeat, is a matter of consequence with me ; but, should the executive, legislative and judicial powers be properly balanced, the security of trial by jury would grow out of that balance naturally. If there is an objection against this balance of power in the minds of the people of this country, it has arisen from the exorbitant power of the crown while we were a part of the British empire. Perhaps, as we had no representative in Parliament, the reasoning is wrong to conclude that an executive power here, possessing the same prerogatives as a king there did, would be dangerous to us. But will not time and reasoning bring all right ?

“ We are a young nation ; and I conceive the several separate powers will gain strength from time to time, as the limbs in an animal gain strength and proportion by age ; and that there will be a period when the constitution of the United States will arrive at complete perfection, and, after that, in time, like those of other countries, will decline ; but, in the mean time, every aid will be given by the patriots which can be applied without convulsing the whole frame. Perhaps in this moment, when such an entire confidence is placed by the people in the men at the head of government, many masterly and efficacious strokes may be given to insert in some measure the equilibrium wanting. We have nothing new here. All is peace, quietness and patient expectation for blessings that no form of government can bestow.”

But the most important service rendered by Judge Sullivan, connected with the constitution, and which will be considered sufficient explanation of our entering so fully into its history, was his effort to secure the adoption of the eleventh article of amendment. This provides that “ the judicial power of the United States shall not be

construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by aliens or subjects of any foreign state." He had able coadjutors, Hancock, Adams and Dr. Jarvis, who contributed to success; but his own share in this work was sufficiently prominent and influential to be entitled to notice.

When the objection to state liability to suit by private individuals first took definite form, cannot now be accurately ascertained. The inconsistency of a sovereign state being liable to answer to the demands of citizens of other states, or subjects of foreign nations, at an early period presented itself forcibly to the minds of Richard Henry Lee, Samuel Adams, and other advocates of state rights. When, soon after the federal government was organized, Nicholas Van Staphorst brought suit against the state of Maryland, in the federal court, at its February term of 1791, the important consequences which must inevitably result from permitting such an encroachment upon state sovereignty were more generally recognized. In that same year Judge Sullivan prepared and published his "Observations upon the Government of the United States of America," to prove the necessity of amending the constitution in this particular.

His argument on his main topic, the *suability* of the states by individuals, occupies but a small portion of its pages; while the rest contains an able exposition of the principles on which the government had been founded, and their practical operation when carried out. Among the numerous sensible and eloquent productions of the period, upon the constitution, it passed into forgetfulness with the occasion and generation for which it was prepared. But its genuine republican sentiments and patriotic glow must still commend it to the perusal of all wishing to realize the existing state of public opinion and feeling, out of which our incomparable constitution was created. As the treatise

will be found at length in another part of these volumes, it is not intended here to attempt any analysis. We feel assured that if his views, as displayed in his "Observations," his "Land Titles," and others of his works, constituted what was understood in former days as anti-federalism, the verdict of posterity will be unqualified respect for the justice, good sense and patriotism, that marked its principles.

An elaborate treatise, in reply to the "Observations," defending the constitutional provision as originally drafted, was prepared and published at Charleston, S. C., in April, 1792, by Timothy Ford,* an able writer, well known as Hortentius. It is curious to observe how much opinions are liable to be affected by circumstances. If these works be assumed respectively as the exposition of southern and northern sentiment as then existing upon this point, the present extreme state-right doctrines of South Carolina show a wide departure from her earlier creed. And Massachusetts, the first to testify by the proposed amendment its sense of the importance of preserving to each state its prerogatives of sovereignty, has at times since, by its disposition to enlarge the field of federal action, changed as much the other way.

The following detached points, selected at large from Judge Sullivan's argument, afford some inadequate idea of its general tenor; but recourse must be had to the book itself for its thorough explanation:

"The convention did not propose anything more than a cession of a part of that sovereign power which the people had given to the several states; nor did they propose that the general government should accept this of the states,

* Mr Ford was born at Morristown, N. J., and belonged to a family who owned at the time of the Revolution the handsome and historical mansion used by Washington as his head-quarters, and of which they still are the proprietors. He was a student in Princeton College when New Jersey was overrun by British troops, and was twice wounded in battle.

but that the people should be represented in conventions, in their natural capacity, where there could be no magistracy, rank, or preëminence, and there recall a part of the sovereign power they had vested in their several governments, and, by the voluntary consent of a majority of individuals in all the states, vest those sovereign powers, so withdrawn, in one government over all the people in America, for certain particular purposes.

"The system proposed contained the natural division of legislative, executive and judicial powers. The judicial power in all governments is the one brought most nearly to the people; and while in this situation all wished for a union, and no one pretended to be in favor of a consolidation, there were great difficulties in the minds of many respecting the construction of the judiciary powers contained in the system then offered to the public. It seemed, however, generally agreed that the states, as states, were not liable to the civil process of the supreme judicial power of the Union; and no one pretended to say that, if the states were so liable, there was not a consolidation of all the governments into one.

"There can be no suit against a nation by any practice yet known, or by any principles yet acknowledged in the world. A national debt lies forever without power of collection until provision is voluntarily made for its payment. Perhaps some may wish that nations might be compelled to do justice as well as individuals; and many may wish the course of nature and her established laws might be altered in other matters; but this is to no purpose; for the leading principles of all governments are firmly fixed by the laws of nature; and, though there appear a variety of forms in the world, yet they all arise from different modes in the application of the same principle. We may as well attempt to erect a temple beneath its own foundations as to attempt to erect a government with coercive power over itself.

"Any one having a demand against a government, which is unliquidated and unfunded, may petition, and must wait with patience for the efficacy of that policy and justice which ought to urge every government to do right; for no sovereign can consent to become a party before a foreign tribunal; and, when wronged, his remedy lies in the strength and power of his own nation./ He demands justice, and, if it is denied him, he appeals to the sword, and makes reprisals.

"There is no principle in civil government which will admit of a judicial without a legislative power; and there can be no extension of a judicial power to persons or things, without a legislative authority to support, direct and limit it. If this position is just, it will clearly follow that, if the judicial authority of the Union can extend to the several states as states, the several states as states are under its legislative authority. And if the several states are under its legislative and judicial, they must be under its executive authority also. If its authority extends to the governments of the particular states, then the republican form of government guaranteed to them by the constitution means nothing more than a form of police for a corporation; and the appellation of legislative and executive powers of the several states, nothing more than the power of making and executing by-laws, provided they are neither made nor executed against the sovereign pleasure of the government of the United States.

"That this is clearly our situation, provided the judicial power of the United States extends to the several states as states, I believe will not be seriously contested. If this is our situation under the general government, then there is not, as the convention expresses it, a consolidation of our union, but a consolidation of our governments, and one great and general system of government embracing all the territory from the south line of Georgia to the north line of Massachusetts, considering and holding those which

were lately sovereign states as districts under the national subordination of, and amenable to, that government.

"But if the government of the United States has the superintendence of all the states, legislative, judicial and executive, there is not energy enough for this in a republican government; the territory is too large; and the people are already, with their different modes of education, their various habits of life, and multifarious tenures of property, too numerous to form one republic. And if the officers, who are to execute the constitution and the laws made under it, are to have all this authority committed to them, their offices will be too important to bear an election. Controversies and bloodshed will probably soon take place, and there will be at first a necessity of having the elections less frequent, and then of leaving the offices hereditary."

Other suits of the same nature of that above-mentioned were entertained in the federal courts, and in the spring of 1793 Judge William Cushing pronounced the opinion of the supreme court that they were constitutional. In July of that year, three months before the death of Governor Hancock, a bill in equity was filed in the federal court against the state of Massachusetts by William Vassall, a refugee loyalist, whose estate had been confiscated during the war, process being served on the governor and attorney-general. The governor thereupon convened the legislature, to meet in September, and his last address, prepared by the attorney-general, as usual then and afterwards in cases involving questions of law or government, where the chief magistrate had not been educated to the bar, was upon this subject. It was read to the General Court by the secretary of state, Governor Hancock being present, but too feeble in health to deliver it himself.

After full deliberation upon the subject the General Court passed the following resolve on the twenty-seventh of September, 1793:

"Whereas, a decision has been had in the Supreme Judicial Court of the United States, that a state may be sued in the said court by a citizen of another state; which decision appears to have been grounded on the second section of the third article in the constitution of the United States :

"Resolved, that a power claimed, or which may be claimed, of compelling a state to be made defendant in any court of the United States, at the suit of an individual, or individuals, is, in the opinion of this legislature, unnecessary and inexpedient, and in its exercise dangerous to the peace, safety and independence, of the several states, and repugnant to the first principles of a federal government. Therefore,

"Resolved, that the senators from this state in Congress be, and they hereby are, instructed, and the representatives requested, to adopt the most speedy and effectual measures in their power to obtain such amendments in the constitution of the United States as will remove any clause or article of the said constitution, which may be construed to imply or justify a decision that a state is compellable to answer in any suit, by an individual or individuals, in any court of the United States. And his excellency the governor is hereby requested to communicate the foregoing resolves to the supreme executive of the several states, to be submitted to the consideration of the respective legislatures."

But, however solicitous Judge Sullivan may have been to preserve inviolate the sovereignty of the states, his views as to the wisdom of extending the exercise of such powers as had been clearly delegated to the general government, where they could be made conducive to the general benefit, were sufficiently liberal.

In the general observations at the close of his work on "Land Titles," which will be found reprinted in another volume of the present publication, are views, that may be

useful, upon the several powers delegated by the constitution, which have not hitherto been exercised. In his judgment "there ought to be one uniform rule throughout the nation on bills of exchange, promissory notes, policies and all personal contracts. These all arising from commerce, the regulation of them he considered the regulation of commerce itself." The federal statutes he thought should, from time to time, be systematized; and not only should the laws be uniform, but also all forms of procedure. Where Congress had made no provision by statute, and the common law provided a remedy, without resort to which the government could not effectually exercise the powers with which it was expressly clothed by the constitution, he conceived it competent for the court to sanction its application.

The following sentiments, from its concluding paragraph, show the sense he entertained of the importance of sustaining the central powers, while restrained within their legitimate field of operation, in full vigor and efficiency: "On the constitutional respectability of the general or national government, the harmony, the union, and even the existence, of the state governments depend. He must be very blind indeed who cannot see, and very unfair if he does see and will not acknowledge, that in this system the several governments revolve round the federal government as their centre, and that, when the force of that shall not be sufficient to preserve them in their several orbits, they must fall into confusion; they must rush on each other with destructive velocity, and fall into one common mass. Nothing then but one general despotism can preserve them from that ruin and misery which result from the petty, distressing wars of small independent states."

CHAPTER XI.

JUDGE OF PROBATE.

THE Council records furnish few interesting particulars, other than those already mentioned in connection with the rebellion, while Sullivan was a member of the board. Massachusetts had become weary of paper currency and its limitless depreciations; and, not having as yet delegated to the general government the power of coining money, she had established a mint of her own. Sullivan was appointed upon a committee to provide for its proper management, and to supervise its operations. The state agent for carrying out a treaty made by the commonwealth with the Penobscot Indians, having been faithless to his trust, and consequently removed from his office, Dr. Little was appointed in his stead. Sullivan was selected, with Judge Dawes, to prepare his instructions, which are entered at length upon the journal. He was at this time chosen by the legislature a commissioner, with Judge Lowell, to superintend the publication of the laws.

He was appointed, in March, 1788, judge of probate for Suffolk, which county then embraced the towns now constituting the county of Norfolk. His judicial duties, although responsible, occupied but a small portion of his time. The routine of the office was less formal than at present, and he found abundant opportunity to be useful, by his ready sympathy with distress, and his cheerful willingness gratuitously to relieve the perplexities of suitors,

often their own lawyers, and quite inexperienced in the business to be transacted. By the existing regulations the probate judges were permitted to practise at the bar before other tribunals than their own; and among the cases mentioned in the public prints as adding to his professional reputation was the impeachment of the sheriff of Worcester before the senate. This high court of impeachments, as it was termed, was held at Faneuil Hall, and proceedings of the kind being unusual, and the public mind much occupied at the time with the trial of Warren Hastings, in England, it attracted considerable attention; the more that Fisher Ames and Theophilus Parsons were employed for the prosecution.

He did not permit his practice, however engrossing, to interfere with his contributions to the press; and the following article is selected as a proof that whatever might have been, during the war, his sentiments of hostility towards the mother country, no such prejudice continued to rankle in his breast. While she chose to pursue an exclusively selfish policy in the regulation of her trade and navigation, and seemed studiously unmindful of American interests, he had advocated retaliatory measures. One principal argument urged in favor of the new federal government had been that it would lead to an adjustment of trade with her upon principles of reciprocity mutually beneficial; and, now that there was a reasonable prospect of this object being accomplished, he was ever ready to discourage any lingering animosity which would tend to defeat it. He thus writes to the editor of the *Herald of Freedom*:

"I confess to you that I have been pleased with the sprightly observations of your letter-writer, *François de la E——e*, and more especially with his just description of the affable and hospitable manners of the citizens of this metropolis, to the truth of which every stranger of sentiment and philosophy will most readily accede. But why, in the name of philanthropy, 'would it be happy for

Americans if they possessed an antipathy for everything British'? This sentiment savors too strongly of local prejudices. Surely there are many things of British origin estimable in themselves, and worthy of our adoption and imitation; to say nothing of the necessity and importance to us of many articles of their manufactures, and which, for a variety of reasons, it is fortunate that we can procure upon the terms on which they are attainable. If we are wise as a people, the investigations of their philosophers, the labors of their artists, and the inventions of their men of genius, which have for centuries been maturing to their present state of perfection, may turn to our advantage. Manufactures upon certain principles may, doubtless, be prosecuted with success in this rising empire; but it is curious to hear many persons clamoring against dry taxes, as they are called, and, at the same time, exerting themselves to interdict that trade and commerce on which a substituted revenue can alone be raised. But a non-importation scheme is to prevent the specie from leaving the country. Supposing all the money made in Mexico and Peru could be collected and retained in the United States, what would it be worth? The value of money is, perhaps, principally derived, not from its being stationary in one particular place or country, but from the universality of its ideal worth. The encouragement and success of our manufactures depend on the prosperity of our commerce, and *vice versa*. Under the auspices of our new government we may safely anticipate their reception upon reciprocal terms in Britain and all other parts of Europe; and, wherever we can pursue a commercial advantage, we shall, I trust, be too wise not to avail ourselves of it. It is high time for us to forego the delusion of names and artificial distinctions. 'The world is all before us.' Our country will become a mart for all nations; and that extravagance, which is so loudly complained of, and which every free and independent country will

always run into in proportion to its abilities, has, in itself, the principles of its own dissolution. Already do we see a reformation. Experience is teaching us wisdom with rapidity; trade and commerce are regulating themselves infinitely better than all the short-sighted schemes of moonshine politicians could ever do; and it is very generally supposed that our exports overbalance our imports at the present day. The wisdom of our country will be strikingly displayed in making the best of our situation; availing ourselves of the natural resources that Heaven has given us, and nurturing and cherishing the meek-eyed goddess of peace and tranquillity at home and abroad. These will lead us to greatness, and perpetuate our glory upon a plan that shall mock the vicissitudes of time."

The earnest debates and close vote upon the federal constitution, in the Massachusetts convention of ratification, indicated much variance of opinion upon that subject; but the distinction beginning to be made between federalists and anti-federalists signified but little the points at issue between contending parties. The ancient heats and animosities, which two years before had kindled into the flames of civil war, were still smouldering in their ashes. Refugees, who had returned, were covertly seeking to regain their sequestered estates, while the patriots, who had purchased them, were trembling for their titles. Much hostility existed, especially in the capital, between the respective partisans of Hancock and Bowdoin, rival competitors for the chief magistracy. Violent antagonisms, growing out of these contentions and clashing interests, continued to swell the angry surge of political discord long after the original causes of disturbance had ceased to exist. Party spirit was unusually fervid, and partook largely of the rancor and virulence marking all our early struggles for power, and which has only now of late assumed a milder type, that we have grown older and

wiser. Indeed, in contemplating the political condition of Massachusetts at this particular epoch, we are at times reminded of the stormy annals of the ancient republics of Greece and Rome, and the Italian cities of the middle ages. If, as under Sylla or the thirty tyrants, or as between Guelf and Ghibbeline, exile, proscription and death, formed no part of the modern strife, much of this forbearance is to be attributed to a greater diffusion of intelligence, and to a higher grade of civilization; but yet more to the spirit of true liberty, to the legal restraints of power, and to the freedom of the press, which, if it inflamed the passion of party, also served as a vent to its fury.

Under the influence of so many exciting elements every one was, more or less, a politician. The battle was fought, not only in the caucuses and in the General Court, but skirmished about the places of business and by the domestic fireside. It raged with especial intensity in the public prints, whose columns, like the town-meetings, were then open indiscriminately to all parties. The leading papers of Boston were the Centinel, edited by Benjamin Russell, and the Chronicle, by Nathaniel Adams; but the Boston and Massachusetts Gazettes, and the Herald of Freedom, also, were ably supported. Most men of influence were constant contributors; and various series of essays, carefully prepared by such statesmen and politicians as Ames, Heath, Gore, John Quincy Adams, Gardiner, Austin and Higginson, must continue to be of great value for the light they shed upon cotemporary history. Some of them, written in controversy upon different sides of interesting questions, are full of force and animation. Temper was frequently lost in the heat of discussion, and they became intense and personal; and, as their signatures were seldom a disguise, they afforded much amusement as well as instruction for the public by their bloodless contentions.

In the spring of 1788, Thomas Cushing, who had been

lieutenant-governor since the organization of the state government, died, and was buried with appropriate solemnities. Sullivan, with Bowdoin, Samuel Adams, Dr. Warren, Judge Dawes and Mr. Scollay, were his pall-bearers. Cushing had constantly held the appointment of captain of the Castle, in Boston Harbor, with its annual emoluments, which had of late amounted to four hundred and fifty pounds. No duties being assigned to the office in time of peace, it was a sinecure. Low salaries and state expenditures within the strictest limits of economy were leading principles of the party which had placed Hancock in the chair; and a few days after the death of Cushing, and before any successor had been selected, the governor had openly declared his intention to make no future appointment to that office, but to leave it to the General Court to provide such other compensation for the lieutenant-governor as they should see fit. Indeed, when Samuel Adams was named as a candidate, he expressed to him this intention, and the veteran patriot nobly replied that he would not receive wages for a sinecure. As a member of the Council, the lieutenant-governor received the usual fees; but, as he had no other official functions, except in the event of the vacancy of the chief office, when he succeeded to its salary as well as to its duties, any provision equivalent to a support seemed inappropriate where no corresponding services were to be rendered. When, however, Benjamin Lincoln, one of the most distinguished generals of the Revolution, and who had lately done the state good service in quelling the rebellion, was chosen in opposition to Adams as successor to Cushing, the determination of Hancock not to appoint him captain of the Castle provoked very general clamor. Sullivan, regarding sinecures as much as monopolies repugnant to republican principles, and arguing that official salaries should be fixed by law, not rest on custom, contended vigorously that Hancock was in the right.

The annual elections of 1789 were attended with in-

creased animosity. An able writer, under the famous signature of Laco, by disparaging the patriotic services of Hancock, sought to shake his hold upon the affections of the public. All his endeavors were, however, unavailing; and not only Hancock was rechosen, but Samuel Adams elected lieutenant-governor, in the place of Lincoln. Sullivan, the friend and legal as well as political adviser of Hancock, was his constant defender against the newspaper pellets of his adversaries; and, consequently, provoking their resentment, often became himself a mark for their abuse. Many severe attacks were made upon him under the designation of Grotius, Zenas, Judge Junius, and Quondam; the latter referring to his former judgeship on the supreme bench, the others to signatures under which he had written for the public prints. His articles, in reply, were forcible and dignified, and effectually thwarted every effort to create prejudice against the two great patriots, whose names, honorably associated by the British governor in their exemption from pardon during the Revolution, were too inseparably associated with its most cherished recollections for the task to be very arduous.

The authorship of Laco is believed to be still an open question. These essays have been recently republished. We are tempted to select the following from Judge Sullivan's numerous articles in reply, as affording some notion of his style in political controversy. It must not be forgotten that stronger expressions were then generally used than at present by all parties.

"There is no character, however immaculate, but what may be wounded by the base assertions of an anonymous writer, who, in a cowardly manner, like an assassin in the dark, will skulk behind a printing-press, and shoot the arrows of envy, malevolence and falsehood, without bringing evidence, or referring to any notorious facts whereon he may pretend to support his charges. Lest I should be accused of thus treating any one, I have mentioned no one

fact but what may be proved, if true, by the records of the General Court and provincial Congress. Let them be examined.

"In the first number of these papers there are but two charges which can deserve any kind of attention. The first is that Mr. Hancock had for the motive of his political conduct the love of popularity. The second is that he was a tool of Hutchinson and Gage. The obvious inconsistency of these charges renders them very contemptible. That a man should be quite swallowed up in the love of popularity, and yet be the tool of the very men against whom the people were infinitely enraged, is a tale that may sound well in the ears of a certain junto composed of old Tories and aristocratic whigs. But the sober, honest people, who love the interest and happiness of their country, will despise a slander as fraught with malice as it is with inconsistency. But why does not Laco point the public to instances, or mention the facts, times and places, in which Mr. Hancock was subservient to the interest of these governors ?

"The first charge is that he acted from a love of popularity. If there is anything criminal in this, let Mr. Hancock suffer ; for he will not, if called upon, deny the charge. Let him be brought forth and slain ; he will die the death of ancient and numerous patriots, and his country's tears will often be shed upon his grave. Laco has yet to learn the meaning of the word *popularity* ; and when he shall be instructed that it means, in all modes of expression, the love of the people, though it may appear a crime in his eye to possess it, yet he will recollect that it has been considered in all ages as worthy of the ambition of the great and the good amongst mankind. But when the great object is obtained, it may be prostituted to base purposes, and be made subservient to domination and lawless power. Whether Mr. Hancock has thus used his uncommon share of popularity, his countrymen will judge. Let them inquire

whom he has oppressed, or whom he has injured or defrauded, with the powers the people have delegated to him. If he still continues his thirst for popularity, he can never be dangerous to the people, because he can never possess more power than he has had for many years; and his wish to obtain the love of his countrymen will bind him still to their interest. But there are men who, like Laco and his friends, wish to establish wrong principles in government, and to support the mischief arising from them by the force of standing armies, and then to compel the people to suffer accumulated miseries, to which they would never otherwise submit themselves. These men are as far from wishing to deserve as they are from securing the love of their countrymen. But the true patriot, the man who can never be happy while his country is miserable, endeavors in all his measures to place a lasting confidence in the hearts of the people, whereby he can lead them, as with the cords of love, to freedom, peace and happiness. This is the temper of Mr. Hancock; and for this alone he has become the object of the malice of those men who consider government not made for the people, but the people as made for the government.

“To charge a man with criminality because he seeks the love of the people, carries with it a charge of an infamous nature against the people themselves, because it supposes that their good will can be obtained only by actions wrong and unworthy. But if Mr. Hancock has been guilty of fraud or deceit in his pursuit after popularity, let Laco point the public to the instance, and exhibit his proof, and the idea shall be fairly tried by the august tribunal of the public. This writer has yet to learn that the mere assertion of an anonymous gazetteer, filled with invective, is no evidence to a sensible, intelligent people.

“The second charge is but a naked averment, without any kind of evidence, and happens to be in direct opposition to the knowledge, sense and understanding, of the

whole people of the United States, and is, in itself, a charge against the understanding and integrity of the whole people who placed Mr. Hancock at the head of several of the great bodies which effected the Revolution.

"He offers no evidence to prove that the man who was president of the provincial Congress of Massachusetts in the years 1774 and 1775, and soon after unanimously chosen president of the Congress of the United States, was the tool of the British governors and generals, but impudently refers the public to the knowledge of Mr. Samuel Adams; thus insidiously to draw that great compatriot into a publication, or to lead the people to conclude by his silence that the fact is proved. In this way all the great characters in the country may be forced into a quarrel; even the great Washington himself entangled in a newspaper controversy. Here the plan of iniquity begins to open; the writer and his party dread the union and harmony of the revolutionists, who know the value of liberty by the price they have paid for it, and who feel themselves most sacredly obliged to defend the people against the arts of wicked and base men, too idle to obtain bread by industry, and who wish an unmerited support from the hard earnings of the people.

"Has not Mr. Hancock been in public life from the year 1772 to this day? A member of the General Court, elected repeatedly by the town of Boston; a member of that General Court, which, when dissolved by General Gage, began first to act independent of Great Britain; that body which raised and equipped an army to oppose the troops sent to America to force the people into submission? Was he not president of that very Congress? Was he not at the head of the delegation from this state to the general Congress in the years 1775 and 1776? And was he not president of that Congress? Now I reason, and the body of the people reason in the same manner, that this man was true to the interest of his country, or the people throughout

the continent were duped and deceived. These facts appear upon record, and are too well known to be denied. And what is very extraordinary, according to the assertions of this writer, General Gage was also deceived; for, by his proclamation of April, 1775, he excluded Mr. Hancock with Mr. Samuel Adams from a pardon, because their crimes were too atrocious and flagrant to be forgiven. Surely here was no room for duplicity; for we all know that when public assemblies are acting in violation of the laws and committing treason, their heads and leaders are to lead the way in exemplary punishment. When Mr. Hancock was chosen president of Congress, was it not done with an express intention to show the British ministry that Congress was so far from receding, or being intimidated, that they had chosen one of the two men who had rendered themselves most obnoxious to the king?

"Whence then is it that a writer will dare to treat the public with falsehoods, which are as plainly so as the united testimony of all the people, and the records of the United States and of this commonwealth, flatly contradicting them, can expose them to be? It is clearly because this writer, who calls himself Laco, has no character to lose, and it would gratify his malevolence and the hatred of his party to injure those of a Washington, a Hancock, an Adams, or any of the leaders of the Revolution. He would answer to them a most valuable purpose."

Among the friends and most cherished associates of Hancock were many other eminent patriots. To their counsels he listened with respect, and they in return were his most zealous supporters. They became naturally a subject of abuse to his opponents, and frequent reference is made to them as the club of the Stone House, Hancock's residence. The governor himself was styled the great man who was to be the new vice-president; and other aspirations were attributed to his confederates. To the changeling, Mr. Adams, was assigned a seat in the senate; to the

trimmer a foreign mission; Quondam and Zanga were to be federal judges; Jerry Dupe collector; Jemmy Blackball tide-waiter. Who were precisely intended by these several designations is pure matter of conjecture; but, if Mr. Hancock be estimated by the attachment and character of his known friends, those thus supposed to share his confidence could not be easily injured in public opinion by this covert abuse of their enemies.

Towards the close of 1788, or early in 1789, Judge Sullivan visited the south. One motive of his journey was, probably, to rally the friends of Hancock, and secure his selection as the second candidate on the presidential ticket. Those who preferred John Adams were, however, in the ascendant. An incident, occurring a little later, deserves to be remembered. Upon the organization of the government, persons from all sections of the country repaired to New York to advance their pretensions to a share in the distribution of federal patronage. With those from Massachusetts came Jonathan Jackson, long distinguished in public life, and who had recently published a work on the new constitution. His object was to be appointed to the Boston collectorship; and he came furnished with credentials from his Essex friends, insuring a certainty of success. Meeting at the tavern with General Lincoln, the latter, not aware that Mr. Jackson had aspirations for that office or any other, frankly stated his own hopes of obtaining the collectorship. Well appreciating Lincoln's revolutionary services, and also knowing that his means were more straitened than his own, Mr. Jackson went at once to the president, with whom an interview had been appointed, and urged so effectually the claims of his friend, that Washington promised to bestow the office upon General Lincoln, who, indeed, held it for nearly twenty years. The generosity of Mr. Jackson went not without its reward. His self-sacrifice became known to the president, who appointed him marshal of the Massachusetts district, a post alike honor-

able and lucrative. It is probably unnecessary, for most of our readers, to add that this excellent man was the father of the noble triumvirate so generally familiar as taking the first rank in their several vocations; one in law, one in medicine, and the third a master spirit in that gigantic system of manufacturing enterprise in New England, to which so much of her present wealth and prosperity are to be attributed.

Many leading republicans felt aggrieved that their opponents, with no better claims than their own, should be preferred for the federal offices. Those selected from Massachusetts were, it is true, well fitted for their posts; but they were all federalists; and this exclusive policy produced among the party dominant in the state a sense of injustice, which, at times, degenerated into very unreasonable jealousies of the administration. Animosities, that might have been appeased by a more impartial distribution of power, renewed their venom, and for many years kept society in a turmoil. This injustice, and the resentments it provoked, were alike to be deplored. Yet it was fortunate that, while our institutions were assuming form, there should have existed somewhere a resisting force; and especially that this should have consisted of a powerful array of patriotic and experienced statesmen, quick to detect errors in their adversaries, and to discourage every departure from established principle. Sullivan witnessed with displeasure this proscription of his friends, and coöperated in their efforts to hold in check any undue ascendancy of the federalists in the national councils.

After Bowdoin withdrew from the canvass, in 1789, Hancock was rechosen governor of Massachusetts, without opposition, each successive year, till his death. From the prominent position he had occupied, he had been more identified with the glories of the Revolution than his rival; and his generous consecration of his property to public objects, and his general affability and kindliness of manner

made him the greater favorite. Yet no name among the many distinguished in our state annals is more justly illustrious than that of James Bowdoin. Inheriting from Huguenot ancestors a profound sense of religious duty, and of the relation of man to the Eternal; possessed of all the principles and graces of Christianity, without bigotry or intolerance, he was charitable to the poor, and active to aid in every generous and useful enterprise. Of high honor and sterling integrity, superior to pride, and untainted by meanness, unassuming and without ambition, his clear intelligence, sound judgment, and extensive cultivation in art, literature and science, his experience and sagacity as well in all questions of finance and government as in the various concerns and interests of social and business life, secured him the respect and affection of every one able to appreciate a character of such noble proportions. When called upon to crush a formidable conspiracy against the government, his good sense and energy, tempered with moderation, saved the state from anarchy; and when his fellow-citizens, disregarding his just claims to their grateful support, chose another ruler, he returned to a private station without resentment. When he died he was universally lamented; and his memory, the inheritance of a people disposed to cherish its transmitted examples of private worth and public virtue, will shine, as time advances, with increasing lustre.

General Sullivan had been for two years president of New Hampshire, when, in 1788, by a similar change of opinion to that which the preceding year had defeated Bowdoin in Massachusetts, he lost his election. His energy had crushed in the bud the insurrection of 1786, and his influence and persuasion secured, in 1788, the adoption by his state of the federal constitution. The ingratitude of republics has passed into a proverb, and these two instances are striking illustrations of its truth. John Langdon, the friend of General Sullivan in the first Continental Congress

at Philadelphia, and his associate in the first overt act of the Revolution in the attack upon Fort William and Mary, in Portsmouth harbor, in December, 1774, was now his successful rival. An eminent and wealthy merchant of Portsmouth, Langdon had occupied a distinguished position in the Congress; and, in 1776, had been appointed navy agent. He was able, generous and patriotic, and in the summer of 1777, by the appropriation of all his money, plate and merchandise, furnished the means of outfit for the army under General Stark, which, by its victory at Bennington, greatly contributed to the surrender of Burgoyne at Saratoga. Langdon had himself taken an active part in the campaign, serving with distinction. In 1785 he was president of New Hampshire, and again in 1788. He was sent delegate to the federal convention; upon the adoption of the constitution chosen senator, and, as president *pro tem.* of the senate, organized the federal government in the spring of 1789, prior to the arrival of Washington. In 1801, President Jefferson solicited him in vain to accept the post of secretary of the navy at Washington. From 1805 to 1809 he was governor of New Hampshire, the title of its chief magistrate being thus established under the constitution of 1792. He was again chosen in 1810 and 1811. Langdon was patriotic, efficient and judicious, in public life, and amiable, generous and upright, in all his private relations. In politics he acted with Mr. Jefferson and his associates, but he was honored and trusted by all parties, possessing great influence throughout the Union. He died at the age of eighty, September eighteenth, 1819. Judge Woodbury Langdon, brother of John, occupied also a distinguished position in New Hampshire, and the names of both brothers are repeatedly found upon the same committees and delegations. If, between their respective partisans, political opposition degenerated often into personal acrimony, such feelings disturbed but little the harmony between the leaders, and the friendship of Langdon and Sullivan remained

long unimpaired by the jealousies of party warfare. One bond of good fellowship was the connection in marriage of James Sullivan with Martha, the sister of the Langdons.

Often occupied for weeks away from Boston, and when at home much engrossed by public affairs, Judge Sullivan, soon after the loss of his wife, felt sensitively the importance of having some head to his household. With every reason to repose entire confidence in the prudence and good management of his daughter Hetty, the care of five boys was a heavy responsibility for a girl of fifteen. Hetty, while on a visit to Portsmouth, had made the acquaintance of her future step-mother. This lady, the widow of a purser in the navy, was cultivated and accomplished, of polished manners, dignified bearing, and possessed of much personal beauty. Judge Sullivan secured her good opinion, and on the last day of 1786 was married to her at Portsmouth by the Rev. Mr. Buckminster. Fond of society, and possessing a delicate sense of the graceful and becoming in social life, she made her home a pleasant one for her husband and the family placed under her care. The boys occasionally complained that she was unnecessarily rigid in her ideas of etiquette, but all of them were willing, at a later day, to admit that her influences were beneficial both over their manners and character. The parents of her husband were then still living at Berwick, at a very advanced period of life. Mrs. Sullivan was careful of their well-being, and unwearying in her efforts to surround their declining years with whatever she thought would contribute to their comfort. But it was not easy to alter the simple mode of existence to which they had been long accustomed, and her mother-in-law, the ancient Margery, was much too decided in character to be easily turned aside from the frugal habits of rural life.

Washington, the year of his first inauguration, visited the eastern states, and the citizens of Boston were seasonably summoned to council to make preparations for his recep

tion. Sullivan, in his speech at the meeting, recommended that a triumphal arch of stone, in commemoration of the event, should be erected by subscription at the entrance of the town from Roxbury. His name stands at the head of the list of thirteen citizens, among whom were Paul Revere, Mr. Higginson and Judge Tudor, who, with the selectmen, were to do the honors of the reception; but, for reasons not explained, he declined. His daughter was one of the four young ladies appointed to open the ball given in honor of the president; a part of the ceremonial to which much importance was attached in former days, and which on this occasion secured them the especial notice of the chief, who excelled in the graceful courtesies of society as in the performance of other duties. The universal feeling of affectionate respect and admiration for Washington surpassed in intensity, as in the elevation of its actuating motives, the loyalty of the most devoted subjects to the best beloved of monarchs. The magnitude and disinterestedness of his public services, his abilities and wisdom as a statesman and general, his purity of character, integrity and private virtues, kindled in all hearts an enthusiastic glow of personal attachment, not the less earnest that it was somewhat checked in expression by the dignity and refinement of his own manners and bearing. When Congress was deliberating by what title of honor the head of the nation should be addressed, Sullivan suggested, not of course in sober seriousness, for he disapproved of all titles, that of "His Most Patriotic Majesty." As applied to the savior of his country, for whose virtues the most sincere republican must feel a veneration not to be accorded to any other earthly grandeur, this designation would not have been altogether inappropriate.

But, notwithstanding their unwavering faith in the attachment of Washington to free institutions, apprehensions disturbed many among the patriots that the new government would gradually degenerate into the similitude of

those of Europe. It was feared that in process of time the simplicity and economy which should characterize a republic would be abandoned, and the trappings and extravagance, the favoritism and corruption, of monarchical establishments adopted in their place. With our present deep-seated convictions, generally prevailing throughout the land, of the entire success of our system of government, it is not always easy to realize the solicitude that disturbed its advocates when it was first launched on the tide of experiment. Distrust mingled with hope in many sensible minds among its most sanguine supporters; while there were large classes who would have welcomed the introduction of aristocratic forms and social distinctions, and have gladly seen the supreme power established upon hereditary sanctions beyond the control of popular opinion or caprice. To counteract the influence of such heretical views, and to resist the incipient tendency of every departure from republican sentiments, was the constant aim of Samuel Adams, Judge Sullivan, and other statesmen of the day. Their political writings were steadfastly directed to keep in full purity and strength the faith of their countrymen in the essential principles of well-organized liberty. We hope hereafter to present a selection of the numerous disquisitions of Sullivan, which will more fully illustrate the importance he attached to correct ideas upon these interesting topics. His unremitted zeal in preserving unimpaired our dearly-bought political rights, when assailed at critical conjunctures by open or secret enemies, is certainly entitled to credit. The following essay from his pen at this period shows how great was his anxiety that the revolutionary struggle for constitutional freedom should not have proved in vain:

"The liberty of the press is essential to the security of freedom in a state, it ought not, therefore, to be restrained in this commonwealth." — MASSACHUSETTS BILL OF RIGHTS.

"When a nation, or people, are in danger of losing their lib-

erties, they are, at all times, reluctant to opening a contest with government. Men of prudence and wisdom, who possess the confidence of the body of the people, are very unwilling to urge them to open and forcible acts of resistance; because no foreknowledge or experience in human affairs can ascertain how wide the torrent may spread, or where and to what purpose the dangerous conflict will end. The people, too, are generally prone to hope for the best, and to give, without reasoning upon the subject, full confidence to every change of constitution and measures, until their burdens become insupportable, and, too often, until their calamity extends itself beyond the reach of remedy.

"The body of the people, in all countries, are violent in their personal attachments to men who have served them well, and merited their love and confidence. Hence it is that those who have saved their country from a foreign foe very frequently are the means of its own ruin themselves. Not that they fail in their virtue or patriotism, but by receiving honors and authorities, which the people have the highest assurance of their improving properly, they establish the power of a successor, to the destruction of their country. Cato might have said of Cæsar, if he had been an exalted patriot, instead of an ambitious tyrant, 'Curse on his virtues; they have ruined his country.' In this country we are all fond of heaping honors upon and vesting our president with powers. He deserves all the confidence we can place in him; and, were we assured of his immortality, I think we might trust his goodness and wisdom with unlimited power. But it is our misfortune to be assured that he will, in a few years, resign himself to the universal conqueror, and join the congregation of the dead. Who will succeed him we cannot tell. We ought, therefore, to wish him no other title, nor vest him with any other powers, than we shall be willing to give to even the worst of men—for such may succeed.

"The people, sometimes, when their difficulties become

accumulated, and their public distresses are multiplied, are too apt to be discouraged, and to despond. Thus, when Sylla usurped the government of Rome by the sword, and destroyed in the circus five thousand of her best citizens, among whom were forty senators, in one day, the people submitted, because they thought the corruption of their morals was too great to be remedied. So, when a nation happens to be involved in debt, as we now are, and a popular government grows careless of the public faith and honor, the people are too ready, instead of associating to change the public measures, to despond, and wish for a change of government, and generally, in such a case, cry out for a master, who, by the *lictors* and *axes*, will compel them to do their duty. I am sorry to say that this is too much the case with my countrymen at this day. They seem to be petitioning, like the Hebrews, for a KING, to scourge them to their duty, and compel them to put on the form of virtue because they have lost the substance.

"It is this temper and disposition which have led to the monarchical powers bestowed by Congress on the president, in the late session of that body. They have given him the complete control of the *treasury*, by authorizing him to remove the officers of that important department when he pleases. They have made him a dictator *pro tempore*, with all the authority which the Romans annexed to that office, by giving him power to call out the militia, when and how he shall please, for a certain time.

"The constitution provides that he shall have the command of the militia when they shall be drawn out in actual service, and that Congress shall provide for calling them out. But, by the act referred to, Congress, by giving the president this power, has given him completely the authority over them before they are called out. We are all, therefore, old and young, within the trainband and alarm list, under the dictatorial power of the president.

"The same spirit urges so many foolish and unthinking

men to wish the president may have the style and title of a monarch, as well as the authority; and they therefore call him '*His Highness*,' and '*His Majesty*.' But he is a citizen, amenable to the laws, which the men who bear these titles in Europe are not; and we must, if we make him wear these gaudy titles, make his office perpetual, and his person sacred, or become the laugh of the world, and as contemptible as we are proud.

"The revolution of the states from the parent country was wonderful; but the political revolution, in the minds of Americans, is more, infinitely more astonishing. God only knows where these things will end. To Him I leave the event."

NOTE. — In the year 1789 appeared Gordon's work on the war. Historical critics are believed now to coincide with Sullivan as to its merits. He was a cotemporary, and, from his position in public life, as it were a witness of the events it professes to describe; and the following view of what has been considered a leading authority deserves attention:

"In a country young and rising, like America, every patriot will encourage literature, and cheerfully subscribe for those productions which increase the general love for knowledge, correct the style of the age, and do honor to the national character. But when there exists a proneness to subscribe for the writings of every mercenary scribbler who makes books with no other view than to gain a few pence, it levels all ranks of literary distinction, and buries works of value to society in the same pile of rubbish with the insignificant wares of the ballad-monger. I am led to these observations by reading Doctor Gordon's *History of the Revolution*. The author, disappointed in his views in America, where he never obtained any political confidence with the people, took himself to his native country to exhibit to the world his ill-nature and revenge. In every part of his history there is a very remarkable want of truth and integrity; but the arrows of his envy and malevolence are so blunted by the indiscretion of his attacks, and the want of decency in his manner, that they do no injury, either to the characters they assail, or to the country he would wound. While here, he labored much in the gazettes to disaffect the people of Massachusetts from their happy constitution; but his writings had no other consequence than to deprive him of their respect. In his production, which *he alone* calls the *History of the Revolution*, there are very few facts truly stated, and these are badly arranged, while the effects for which he assigns causes are generally as much estranged to what he supposes they flow from, as his is from a pure historical style."

CHAPTER XII.

ATTORNEY-GENERAL.

WHEN the federal government was organized, John Jay was appointed head of the federal judiciary, and efforts were made, "by those who agreed with Judge Sullivan in the theory of free government, to place him on the supreme bench as one of the associate judges. It was more a subject of regret to them than to himself that another eminent judicial character of Massachusetts, William Cushing, its chief justice, was preferred." The governor offered Judge Sullivan the vacancy created by the removal of Cushing. But, had his health or means permitted, he was by nature too active to bear patiently the restraints and sedentary habits of judicial life. It was finally arranged that Robert Treat Paine, who had been attorney-general since the early days of the Revolution, and who was now disposed to make the exchange, should be elevated to the bench, and Sullivan, resigning his office of judge of probate, succeeded him, in February, 1790, as attorney-general.

Not consenting to have his official emoluments depend upon the number of prosecutions, he made it a condition, before accepting the appointment, that a fixed salary should be attached to the office. A statute was accordingly passed, at his suggestion, that his compensation should be the same as that of the judges. This was a pecuniary sacrifice, the average fees, under the ancient system, yielding a much larger income. His new duties were onerous and respon-

sible. He was obliged to attend the supreme court upon all its circuits through the state, and, many offences now cognizant by the inferior tribunals being then within its jurisdiction, its criminal calendar demanded a considerable portion of his time.

Having been previously retained in several suits against the commonwealth, and an action being now pending against Gorham and Phelps, for the purchase money of the western lands, in which speculation he had a small interest, Joseph Hall was appointed, by resolve, to the charge of those causes. To all other official duties he immediately devoted his attention, and for the next seventeen years the newspapers in different parts of the state furnish constant proof of their variety and responsibility. Numerous state claims to land, especially in the district, were in litigation. Their care devolved upon him; and he was, besides, the constitutional adviser of the governor and council. His official distinction attracted private clients, and he was soon in the enjoyment of the largest professional practice in Massachusetts.

The bar of Massachusetts then consisted of about one hundred members, and its celebrities from all parts of the state attended the circuits of the supreme court through the different counties. Travelling generally together, the arrival at the shire towns of their long line of vehicles, preceded by those of the judges and of the attorney-general, whose horses were noted for their beauty and speed, we are told by one who remembers this as among his youthful pleasures, created a sensation. Crowds gathered to catch a glimpse of the great legal luminaries as they passed, and filled the court-rooms, to watch their proceedings, and listen to eloquence whose fame was widely spread. Parsons, Dexter, Sedgwick, Lincoln, Bigelow, and the Stronges, were among the more distinguished usually present while Sullivan was attorney-general.

Life on the circuits was much as that already described

as prevailing before the Revolution. The judges were still grave and dignified, the lawyers courteous and polite. Long residing under the same roofs, and partaking at the same board, there was little formality; and, as fond of social enjoyment as conscientious in the discharge of more serious duties, they improved their hours of relaxation in friendly intercourse. If the weather were cool they clustered at night around the broad hearths and ample fire-places, which were then customary in country inns; and in the summer evenings chatted late in the evening air, which served as an agreeable refreshment after the warm and crowded discomforts experienced during the day in the court-room.

Chief Justice Sargeant, who succeeded William Cushing, died in 1792. Francis Dana, his successor, and his associates, Increase Sumner, Robert Treat Paine and Nathan Cushing, were all social and agreeable men, and Judge Dawes famous for his joviality and fondness for frolic. Many of his amusing drolleries are still freshly remembered by his ancient intimates. He was of diminutive proportions, and had a slight lisp, which gave additional zest to his pleasantries. In subsequent years, Bradbury, Sewall, Strong, Thacher and Sedgewick, were appointed to fill vacancies as they occurred; and in 1806, Theophilus Parsons succeeded Dana as chief justice, and Isaac Parker, his successor, was the same year added to the bench.*

* The judges wore their robes till after the death of Gov. Hancock. At his funeral, as usual on such occasions, they appeared in full dress. Judge Dawes had then been recently raised to the bench, and, being under five feet in height, the judicial costume, surmounted by a three-cornered hat, looked a little absurd. The chief justice had no respect for the qualifications of Judge Dawes for his post, and had disapproved of his appointment. Though himself of a dignified and impressive appearance, he was not tall, and, perceiving that, at least in this instance, the majesty of the law was not rendered more imposing by external trappings, when the court again met he came without his robes. In the lobby, after their adjournment, Judge Sumner remonstrated in vain against this innovation on ancient usage. The associate judges, compelled to conform to their chief, laid aside their gowns and cassocks, which have never since been resumed by the judges of the commonwealth.

One who was occasionally present remembers well the general tone of hilarity which enlivened professional intercourse on the circuits, the vast variety of anecdote and story which formed its staple entertainment. Moments more sedate were occupied with instructive discourse on the leading political questions of the day, or other interesting topics. If due deference was paid to judicial dignity, bar and bench associated without restraint; and intimacy, and often warm personal regard, resulted from constant companionship. Sullivan, who had been himself on the bench, was friendly with all, and promoted that mutual feeling of respect and social equality, without which the best of company is but a bed of thorns. However keen the encounters of the forum, the lawyers filed away all altercations in their bags with their briefs, and the most thorough good-humor marked the lions while at play. On festive occasions the attorney-general was often master of the revels; and, with Judge Dawes, Daniel Davis, Mr. Sedgewick, and others, distinguished for their convivial qualities, contributed freely to the gayety which served to relieve the more substantial elements of these intellectual repasts.

The following incident, connected with circuit life at that period, is recorded in the state archives, and may be entertaining to some of our readers. It is well known that nowhere more strictly than in New England has the Sabbath been consecrated to religious duties. This, particularly true of colonial times, long afterwards continued characteristic of its people. Blue laws, in Massachusetts as in Connecticut, punished its desecration with heavy penalties. From midnight to sunset, for the day was thus mercifully somewhat shortened by law, no hackney-coach was permitted to drive in or out of Boston, without warrant from a magistrate; no vehicle allowed to move, during service, faster than a walk. Governor Hancock, on one occasion, was fined for taking a turn in the mall on his way

home from church. By the statute of 1792, travelling or other secular employments, unless for some purpose of necessity or humanity, was prohibited on the Lord's day; and wardens, tithingmen and other functionaries, were clothed with unusual powers to enforce its observance.

With Maine as part of Massachusetts, these regulations to the judges were somewhat embarrassing. Their courts were held nearly every week throughout the year, and it would often have been quite impossible to keep their appointed terms without encroaching upon the period set apart for devotion. A few months after the law above alluded to, which had been drawn up by Paine, one of its judges, went into operation, the supreme court, after having been engaged in the trial of important cases at Falmouth late into Saturday evening, found themselves compelled to be at Dresden early Tuesday morning, to hold their session for the county of Lincoln. The roads were bad, and a gathering storm threatened to delay their journey. After reaching the Kennebec, at Bath, they were to make their way up through the uncertain navigation of Merrymeeting Bay in a sail-boat. That they might reach their destination in season to open the court at the time appointed, the judges, accompanied by the attorney-general, in their several vehicles, made an early start on Sunday morning, and were passing through the quiet country village of Freeport during the hours of morning service, when the warden, on the alert to catch Sabbath-breakers, observed the line of carriages slowly winding up the hill towards the meeting-house. Zealous to do his duty, he pounced upon the culprits, who, though they did not summarily resent this contempt of court, gave the warden but little satisfaction, and drove on. The people of Freeport, indignant that those who administered the law to others with severity, should feel themselves at liberty to disregard it at discretion, were greatly scandalized. They presented the case to the grand jury, who duly indicted the judges.

Incensed at this outrage on their official dignity, the judges petitioned the legislature to authorize a *nol. pros.*; and, after much vexation for the dignified offenders, and much amusement for the public, the proceedings were stayed.

Judge Sullivan, soon after his appointment as attorney-general, busily occupied himself in preparing for the press his Observations on the United States Government, published in 1791, and his treatise on Banking, which appeared in 1792. Both of these productions are more particularly mentioned in other chapters. His political opponents speak of him at this same time as the most incessant writer for the public press; and articles, easily identified as from his pen, upon all the important questions of the day, appeared with great frequency in the several gazettes of the capital. Besides those in which he defended the administration of Hancock from the attacks of its enemies, he wrote much upon the proper rules for funding the public debt; upon the importance of securing some principle of reciprocity in our trade with England; the necessity of a bankrupt act; the expediency of abolishing all laws of excise; the amelioration of the criminal law.

His name is found each year on the Boston records, as being present and taking an active part in its municipal meetings. In 1790 he moved the consideration of the subject of excise, and was appointed chairman of a committee to instruct the representatives to urge the repeal of all laws of this nature. He was chairman of another, the same year, to examine into the state of the debt and finances of the town, and to devise some plan for placing both in a more satisfactory condition; and, the following year, to prepare a remonstrance against the petitions offered to the legislature for dividing the county of Suffolk. Many of its inhabitants had to travel forty miles to attend the courts, and had good ground to complain of this as a grievance. His report contains much interesting information, but is too long for insertion. Towards the close of 1791

he was appointed chairman of a committee, of which the other members were Dr. Jarvis, Judge Dawes, Edward Payne, Judge Tudor, Davis, Mason, Higginson, Eustis, Gore, Little, J. Q. Adams, Edes, Lucas, Tileston, Prince, Edwards, Revere, Tyler and Bulfinch, to consider the existing state of the town, and report some plan for a more efficient management of its affairs.

The year after Sullivan settled in Boston, it will be perhaps remembered that a project had been entertained for changing the form of its municipal government. All affairs of importance were considered and decided upon in town-meetings at Faneuil Hall, where all had a right to be heard, and where the most influential, and others fond of public declamation, were in the habit of frequently taking part in the discussions. The actual control of town affairs was entrusted to the boards of selectmen, overseers of the poor, firewards, and other functionaries, quite independent of each other, and responsible to the citizens in their annual meetings. This system answered sufficiently well for a small community, but was wholly inadequate to the wants of a wealthy and populous metropolis. At that time a committee had been appointed, of which Samuel Adams was chairman, and Sullivan a member, to consider the expediency of applying to the General Court for an act to form the town into an incorporated city, and report a plan of alterations in the town police. Upon investigation, the citizens were found to be averse to change, attaching great value to the old system, as having conduced to the establishment of their liberties.

As the trade and population of the town increased, the defects of the municipal organization became more glaring, and a meeting was now called, of which Sullivan was the moderator, to consider what alterations should be made to correct the existing embarrassments. As chairman of the committee, he reported a new form of government to a subsequent meeting in January. It was determined, in

order to conciliate the prejudice in favor of old associations, to combine a city organization with the ancient title of town. Nine wards were to be created, from each of which two persons were to be delegated to a common council. A police court and town attorney were part of the plan.

Vigorous exertions were made to insure success to the proposed system, and, when the subject came up for discussion, Sullivan made a long and eloquent speech in its elucidation. He was ably seconded by the most distinguished orators of the town, Otis, Paine, Dr. Jarvis and others, "who exhausted in its behalf every appeal that the brilliancy of imagination could suggest" to the good sense of the people. The opposition, headed by Austin, however, after a debate of unusual ardor and asperity, succeeded in defeating the project by a majority of three votes. An effort made in the following May met with like success, as also others in 1797 and 1804, when Sullivan was again appointed chairman of the committees; no change in the town organization being effected before 1822. At the annual meeting in May, Sullivan's name is found upon a committee appointed by the citizens to superintend the erection of an alms-house for the poor.

The Historical Society, then lately organized, on Tuesday, the twenty-third day of October, 1792, celebrated the third centennial anniversary of the discovery of America by Columbus on the twelfth of October, old style, 1492. Jeremy Belknap delivered an address, of deep research, upon the discovery, at Brattle-street church, Dr. Thacher offering the prayer, and the services concluding with an ode. Hancock and Adams, the governor and lieutenant-governor, with the council and the members of the society, dined with Sullivan, its president, at his house in Bowdoin Square.

A few months later another occurrence, of much interest to Sullivan, took place in the same dwelling. His daughter was married to James Cutler, a merchant of Boston. In

honor of the event Governor Hancock gave a magnificent ball in a spacious apartment, then forming a part of his mansion on Beacon-street, for use on festive occasions. This hall, some sixty feet in length, was decorated with the portraits of many revolutionary celebrities, and possessed many interesting historical associations. The building was removed in 1818 to Allen-street, and is believed to be still in existence.

To one with the taste and ideas of elegance of Mrs. Sullivan, who had been brought up among the splendid mansions of Portsmouth, the house on Bowdoin Square was but poorly adapted, and, as the family grew into life, was too small for their comfortable accommodation. Governor Hancock had proposed to his friend to build a house upon that portion of his estate now occupied by the state-house, and an agreement was made for its purchase. But that spot being intended by Hancock * as a gift to the commonwealth for public purposes, the idea was finally abandoned, and Sullivan bought, in August, 1792, the estate, containing about thirty thousand feet of land, on Summer-street, and erected the house successively occupied by William Gray, John P. Cushing and William Pratt, and which only recently has been removed to be replaced by the building occupied by the Mercantile Library Association.

Between Judge Sullivan's estate and Trinity church existed, at the time of his purchase, a small passage called Bishop's alley. By a gift to the town, a few years later, of two thousand feet of his land, this was enlarged into a street, which he named after his old friend and brother patriot, Major Hawley. The following letter to the selectmen, dated the ninth of December, 1799, is found on file

* Indeed, under his pillow, when he died, were minutes for his will. Among the appropriations of his property was the gift of his estate on Beacon Hill to the commonwealth, as a residence for its chief magistrate, and for other purposes of government. But he had not realized the rapid approach of dissolution, and his patriotic intentions were not destined to be accomplished.

in the city hall: "While you are making daily improvements in the streets of the town, I take the liberty to mention that I have left out, adjoining to what has been called Bishop's alley, a piece of land two hundred and thirty-eight feet long, and eight feet and four inches wide. This has given the alley the appearance of a street, and has rendered it very useful to the public. I am now willing to give the land to the town, on a street being established there by the name of *Hawley-street*."

On Board alley, the continuation of this passage towards Milk-street, stood a building which had recently been fitted up and consecrated to Thespis. Stage plays were performed; but, in order to evade the penalties of the law, and escape the interference of all such as were obstinately prejudiced against theatrical exhibitions, these performances were advertised as moral lectures. We propose to reserve for a subsequent chapter whatever relates to the professional life of our subject; but the origin of the drama in Massachusetts, with which his connection in the discharge of his duty as public prosecutor has been somewhat misrepresented, is of sufficient general interest to form an exception.

Both our pilgrim and puritan progenitors came to the wilderness that they might worship their Creator away from the pomps and vanities of a wicked world, and were too grave and earnest to wish to be amused. Life, to them the threshold of death, and after that the judgment, was a stern reality, and its precious moments were too sacred to be wasted in frivolous entertainments. The preachers and the elders exercised a predominating control over the people, and a pulpit indulging no cheerful views of religion cast a depressing shadow over society. The interpretation of the sacred writings was deemed sufficient refreshment after toil, and the singing of psalms the divinely appointed expression of merriment. In England, reaction followed the gloomy austerities of the protectorate; but the vices and follies of the restoration only served to deepen among

the puritans their abhorrence of worldly enjoyments; and for more than a century later in Massachusetts the dance and the theatre remained abominations. The devotional spirit and stern virtues of the New England fathers command our profound veneration. If bigoted and unduly intolerant of rational amusements, they should be judged by the laws of public opinion in their day, and not by the more enlightened standards of our own. Probably under no less rigid religious training could have been developed the moral hardihood, self-sacrifice, clear perceptions of right, and conscientious persistency in maintaining it, which established our liberties. Among the earliest to resist parliamentary encroachments upon colonial rights were Mayhew, Chauncey, Cooper, and other distinguished divines, and many of the most efficient popular leaders, such as Oxenbridge Thacher, Hawley and Samuel Adams, were as profoundly imbued with religious truths, and as obedient to the requirements of church discipline, as their staunchest puritan or pilgrim progenitor.

Before the middle of the last century no laws had been passed against theatrical entertainments; for the reason, probably, that there had been no disposition to introduce them into the colony. English officers engaged in the French wars brought over a taste for the drama, which the provincial legislature sought to repress by the statute of 1742, and another in 1750. Occasionally, before the Revolution, the British, when in garrison, scandalized the public prejudices by violations of this law; and, during the siege, when churches were desecrated into barracks and riding-schools, Faneuil Hall, the Cradle of Liberty, was turned into a play-house. American peculiarities were made subject of ridicule, and Washington and the other patriot leaders, represented upon the stage in caricature, held up to the derision of the English soldiery.

In 1779, at the recommendation of Congress, the General Court appointed Judge Sullivan, William Phillips and In-

crease Sumner, to bring in a bill "for suppressing theatrical entertainments, horse-racing, gaming, and such other diversions as are productive of idleness, dissipation and a general depravity of manners." The report was duly made and recommitted; but existing statutes were found sufficient for the objects in view. In 1785, upon the general revision of the provincial laws, after the adoption of the state constitution, the statute of 1750 was reenacted, to continue in force till 1797. With the increase of wealth and luxury, and more general intercourse with other nations, this prejudice against the stage gradually wore away, and eight of the other states sanctioned theatrical performances when an effort was made to introduce them into Massachusetts.

Among the most prominent personages in public and professional life, for the eight years following the peace, was John Gardiner, already mentioned in a former chapter in connection with the attack on the bar rules. Mr. Gardiner, son of Dr. Sylvester Gardiner, a wealthy refugee, was born in Boston in 1731, and, educated in England, was bred to the law, and entered of the Inner Temple. He early took a distinguished rank at the English bar, and, in 1766, was offered the post of chief justice of New York. This he declined, but accepted, soon after, the appointment of attorney-general at St. Kitts. In 1783, partially through the instrumentality of Sullivan, he was permitted to return, and, two years later, was chosen to deliver the oration, on the fourth of July, in Boston. He removed soon after this to Pownalborough, in Maine, whence he was sent a representative to the General Court. He possessed great ability and eloquence, was an excellent classical scholar, and well read, not only in his own profession, but in history, controversial divinity, and various other branches of learning. If eccentric and impatient of control, he was a genuine republican; and his efforts to abolish entails and the remaining rights of primogeniture, as also to simplify and economize the practice of the law, by doing away with special plead-

ing and the somewhat exclusive restrictions upon the admission of attorneys known as the bar-call, justly earned him the title of law reformer. Counsellor Gardiner did not confine his efforts as a reformer to his profession or to the laws, but, as one of the most zealous and influential of the early Unitarians, aided in the preparation of the King's chapel liturgy, by adapting the book of common prayer of the Episcopal church to meet the doctrinal views of that persuasion. He was unfortunately lost at sea, in October, 1793; the packet *Londoner*, in which he was coming from Maine to attend to his legislative duties, being wrecked off Cape Ann.

At a meeting called at Faneuil Hall, in October, 1791, at the instigation of Gardiner and other friends of the drama, the Boston members were instructed to procure, if possible, the repeal of the law against theatres. When, in the following January, the committee of the legislature reported adversely, Gardiner made an eloquent appeal in behalf of the stage, giving a comprehensive sketch of its history both in ancient and modern times. This speech was printed at length in the newspapers of the day, — an unusual distinction, — and, enriched with valuable notes, was published separately. It failed, however, for the time, to accomplish its object; the report against the repeal being accepted by ninety-nine out of one hundred and forty-three. The next year a company of comedians, under the direction of Charles Powell as their manager, arrived in Boston, and, fitting up a stable in Board-alley as a theatre, to avoid the letter of the law, had advertised their performances under the name of moral lectures. This open violation of a statute, which the legislature had recently by a large majority refused to repeal, was brought, in September, to the notice of the Suffolk grand jury, who refused to interfere. Several of the public functionaries considered the theatre demoralizing, and all were greatly displeased that strangers should thus insolently set their authority

at defiance. Hancock, in his speech, in November, to the General Court, which, as the small-pox prevailed in Boston, was convened at Concord, recommended that measures should be taken to vindicate the majesty of the law, and to bring the offenders to punishment.

Notwithstanding this speech of the governor, and the response of the court that the law ought to be enforced, the company persisted in their performances. Hancock felt bound, while the law existed, to see it put in execution. He issued his proclamation against the players, and summoned the attorney-general to the Council, of which Samuel Adams, as lieutenant-governor, was an influential member, and "ordered him forthwith to prosecute and bring to condign punishment any committing open and flagrant breaches of the law tending to injure the morals of the people, and to bring into contempt the government thereof; particularly the audacious violators of an act now in force entitled 'An act to prevent stage-plays and other theatrical entertainments,' in order effectually to prevent any breaches of said act in future." The grand jury having refused to indict, and no informer appearing to institute a *qui tam* for the penalty, as provided by the statute, or even to swear to a complaint, Sullivan instituted an information *ex officio*; a mode of prosecution under the English common law provided for cases of misdemeanors where the public authorities were set at defiance.

On Wednesday, the third of December, Sheriff Allen, under his directions, entered upon the stage with his officers, during the performance of the School for Scandal, and, taking possession of Harper, one of the actors, held him to bail to appear next day before the justices, and enter into recognizances to the next session of the supreme court. The sheriff further expressed his determination to arrest the whole company unless the performances ceased. Much excitement ensued, and the portrait of Hancock, hanging before the stage-box, was torn down

and trampled under foot. The audience, however, soon dispersed, and the theatre was closed till the legislature repealed the law. Later the same evening the governor was seated in his parlor, surrounded by several gentlemen engaged in discussing the subject of the arrest, when a noise in the hall attracted their attention. Upon opening the door, he found a crowd of persons, many of whom were sailors, who, in reply to his inquiry as to the object of their visit, said that they came to know if it was his honor's wish that the play-house should be pulled down. He was somewhat amused at the proposal, but told them, if they attempted any such thing, it would be the duty of the proper authorities to see them all lodged in prison; and upon this they retired, quite disappointed. Hancock requested one of the gentlemen present, who, from his office, could interfere with propriety, to go down to the theatre, and take the necessary precautions to prevent any disturbance. A sufficient force was collected to preserve order; and those inclined to mischief soon retired. Notwithstanding this, however, the governor was accused in the papers of having instigated a mob to destroy the play-house.

In order to accommodate the public, very generally interested in the issue, the examination of Harper before the justices took place at Faneuil Hall. The attorney-general read a special order from the governor. Tudor and Otis, counsel for Harper, objected to the legality of the arrest, as contrary to the fourteenth article of the bill of rights, which requires that all warrants shall be supported by oath or affirmation. Sullivan argued that this rule did not apply to cases like the present, where offenders had been taken in *flagrante delictu*, in actual violation of the law, a proceeding of daily occurrence, and never considered an infringement of constitutional privileges. Public sentiment was in favor of the theatre; and the judges, not able to resist this appeal to popular rights, the defendant was discharged amid loud applause.

Sullivan simply performed his duty as attorney-general. He had no personal prejudices against the theatre, but was indignant that the laws should be contemned. To prevent any unreasonable prejudice against the government, he defended its course in the papers; and, among other articles of his, that in the Chronicle, signed A Friend to Peace, presents a sufficient justification. His opponent, under the signature of Menander, was, probably, Gardiner, the champion of the stage. In March, a bill, repealing the act of 1750, passed the legislature. It permitted Boston, by a vote of a majority of its legal voters, to appoint three persons to license a theatre for four months in the year, the plays and performances to be approved by them; but prohibited the drama, under heavy penalties, in all other towns. This act provided that no theatres should be erected, or any expenses connected with such entertainments be made, at the cost of the town treasury. The statesmen of those days were well read in the history of the ancient republics, and fully realized how much their liberties and existence had been undermined by the serious mistake of providing *panem et circenses* at the public charge for the sake of popularity. The bill had been killed by amendments. It certainly was open to many grave objections; and the governor, not caring to veto, yet still not able to approve, permitted it tacitly to become a law, according to the then provision of the constitution, by retaining it more than five days. Though enrolled as an act, it was never printed. The Boston Theatre was erected, and opened in February, 1794, and a statute regulating theatres enacted in 1797.

The progress of the French revolution was watched by Judge Sullivan with lively interest. Having been himself actively engaged in our own struggle for independence, he realized how much its favorable issue was to be attributed to the assistance of France, and could not cease to hope she would eventually succeed in securing free institutions

for herself. The regeneration of a mighty empire was, of course, not to be accomplished without violent convulsions, and, in the upheaval of its ancient system, things vile and detestable would be forced to the surface. Social distress, financial embarrassments, torrents of bloodshed, however much to be deplored, were, perhaps, inevitable as the price of liberty. While a ray of hope remained that the end was possible of attainment, even at this fearful cost, the object seemed worth the sacrifice. On the 21st of January, 1793, a grand civic feast was celebrated in State-street, Lieutenant-governor Adams presiding. Subscriptions were raised for the release of debtors from prison, and there was a general jubilee. Similar festivities took place at Plymouth, and at other towns in the commonwealth. But when, in March, intelligence arrived of the trial and execution of King Louis, that very week of the festival, followed by tidings of increased horror with each arrival from Europe, many regretted the excess of their enthusiasm. La Tombe, the French consul, when he came to America, had received from the unhappy king a present of his portrait. He was an intimate friend of Sullivan, and, fearing that the possession of this picture might expose him to the fearful consequences of incivism, he requested Sullivan to hang it up in his own house; and it was there in a vacant chamber at the time of the execution.

An association had been formed in Boston, among the well-wishers of the French revolution, called the Constitutional Society, but stigmatized by their enemies as the Club of the Jacobins. Perez Morton was at its head. It was made the subject, somewhat later, of a witty poem, called the Jacobiniad, written by Dr. J. S. J. Gardiner, the son of the law reformer. Sullivan remained for a time a member; but, considering his official position inconsistent with membership of a secret society, and finding reason to disapprove of their extreme views, he took occasion publicly to erase his name from their books.

CHAPTER XIII.

ATTORNEY-GENERAL.

GOVERNOR HANCOCK, who had been for many years an invalid, died on the eighth of October, 1793, a few weeks after meeting the legislature for the purpose of recommending the constitutional amendment already referred to. From the commencement of the Revolution a cordial intimacy had existed between him and Sullivan. Hancock was the elder by seven years; but this difference of age, by preventing rivalry, drew closer between them the bonds of friendship. The great affliction of Hancock, in the loss of his only child, in 1787, was followed within a few months by a similar cause of sorrow to his friend, in the death of his eldest son. From this period they were in the habit of constant intercourse; and, entertaining the same religious and political sentiments, and agreeing on many other points, there existed between them sufficient difference of character for their association to prove mutually pleasant and beneficial. Samuel Adams, though much older than either, had renewed all the cordiality of his earlier friendship for Hancock, and was also warmly attached to Sullivan.

A few days after the funeral, Sullivan published in the *Chronicle* an obituary of Hancock, which was also printed in a separate form. William Tudor, in his life of James Otis, and John Adams, have both paid eloquent tribute to his character: and there are interesting memoirs of this

distinguished patriot in Sanderson's Lives of the Signers, and in other publications. His papers have been unfortunately dispersed; but sufficient material remains for a valuable biography of one whose memory is rapidly fading away into little else than the great shadow of a name. It would be the height of presumption to attempt here any additional commemoration; but the public life of Sullivan was so intimately associated with that of Hancock, that, for its better illustration, some mention of the prominent points of his career, not familiar to all our readers, may, perhaps, be pardoned.

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elated ; and, while generous upon every fitting occasion, he was never ostentatious nor extravagant.

Placed by affluence beyond the necessity of labor, fond of society and of the pleasures and splendors of life, generous, noble-hearted and reliable, he took a prominent position in the social, commercial and political circles of the day, and became a general favorite. Thus popular and influential, it was natural for the British ministry, while seeking to fasten the fetters of an Asiatic despotism upon three millions of people, to strive to make him their own. But Hancock was not to be corrupted ; and no rank or distinction which Great Britain had to bestow could tempt him to swerve from loyalty to his country, or from an unhesitating devotion of all his energies and whatever he possessed to the defence of her rights and liberties. He was early chosen by the inhabitants of Boston a representative to the General Court ; and the remark of Samuel Adams, upon the occasion, to his cousin John, the second president, is well remembered ; that the citizens had that day done wisely for their country in securing John Hancock to her cause.

With such associates as these, and with Otis, Quincy and the Warrens, Hancock matured into a patriot ; and, securing the esteem and confidence of his countrymen, became a leader, a ruler of the storm, in the momentous crisis which was to sunder Great Britain and her colonies. Throwing himself without reserve into the conflict, as just and reasonable as he was patriotic and persevering, by his ardor in debate and his prudence in conduct, encouraging the timid and restraining the impetuous, he rapidly gained an ascendancy over public opinion, and formed a rallying point amidst the growing disaffection. Inculcating the great truth that obedience was due to the law, and not to the monarch, and that when that monarch violated the rights of the subject he forfeited his own, he carried along with him the hearts and judgments of his countrymen, and the

determination to resist became uncompromising and universal. If John Adams said truly that the Revolution was accomplished before the first bloodshed at Lexington, to Hancock is due a liberal share with the other leaders of the glory of its achievement.

He was placed high in the provincial councils; but when, after his name had been repeatedly stricken from the list by Governor Hutchinson, in order that his influence with his party might be impaired, it was permitted to remain, he indignantly refused his seat among the councillors; and, by his spirited and patriotic oration upon the anniversary of the Boston massacre, removed every possibility of doubt of his unequivocal devotion to the popular party. As colonel of the cadets, the life-guard of the executive, he was called upon to perform escort duty at the funeral obsequies of Lieutenant-governor Oliver. When reproached by his friend Mr. Adams for paying this tribute to one who had lent himself a willing instrument for carrying out the arbitrary measures of the government, his reply, "that the honor was paid to the office, and not to the man," deserves to be well remembered under our republican institutions. Not finding him sufficiently subservient, Governor Gage recalled his commission; and his soldiers, incensed at this insult to their beloved commander, sent to the British satrap at Salem the standard which he had presented them, and disbanded. When Great Britain, finding coercion and intimidation alike unavailing, attempted to conciliate, a general pardon was offered to all but Adams and Hancock.

He had been already, in 1774, president of the Provincial Congress; and, sent to Philadelphia, was chosen to preside over that of the continent; an assemblage which for private worth and public virtue, for ability, eloquence and wisdom, for the dignity of its cause, and the grandeur of its consequences, has no parallel in history. By his magnanimity and fearlessness, his intelligence, courtesy and impartiality, in the discharge of the duties of that high

office, he gained the respectful admiration, not only of the Congress and America, but of the friends of freedom throughout the world. From his official position, the name of John Hancock stands the first upon the Declaration of Independence, that great instrument destined to mark to distant ages a new era in the history of humanity.

After the first bloodshed at Lexington had aroused New England, our gallant countrymen, flocking to the camp, taught their invaders, at Bunker Hill, a lesson of caution. During the following winter eleven thousand disciplined veterans occupied the town, keeping carefully within their entrenchments. The American army, rarely equal in effective numbers, scantily clad, and poorly provided, occupied the shores of the basin, of which the three-hilled peninsula formed the centre, with little to keep them warm but a generous glow of patriotic love for their country, and of indignant resentment towards her unnatural enemies. While waiting for the ice to form over the river, that they might cross to the attack, it was proposed to bombard the place. The property of Hancock would have been exposed to certain destruction, and his wishes were consulted as to the plan. His answer, worthy to be inscribed in letters of gold, will never be forgotten: "Let no private interests of mine, sir, interfere with the liberties of my country." Thus ready to sacrifice his property to the cause, he was also ready, like his friend, Joseph Warren, to share with his countrymen the dangers of the battle-field, and, at the head of the state contingent, took part in the siege of Newport.

When Massachusetts, parting the last ties that bound her to colonial vassalage, shaped out of the largest liberty wise laws for her future guidance, she selected Hancock for her chief; and annually while he lived repeated this mark of her confidence and grateful affection, except for a brief period when, sent to the Congress, he was called upon

again to preside over its deliberations. The particulars of his administration belong to the history of the state. All must admit that it was able, consistent and patriotic. As far as his power and influence extended he was indefatigable in efforts to promote the best interests of the people. His successful endeavors to restore tranquillity, after a dangerous insurrection, by a generous clemency ; to insure economy and sustain the public credit ; his efforts to encourage learning and morality, to prevent excessive usury, to abolish lotteries, to mitigate the criminal code, and do away with infamous punishments, such as branding, cropping, and the whipping-stool, are creditable proofs of a good heart ; while his untiring exertions to save state sovereignty, the best palladium of our liberties, from the dangerous vortex of consolidation, become daily a more convincing proof of his great sagacity.

Familiar from early manhood with political questions, he appreciated the defects in the federal constitution ; but no pride of opinion or intolerance of imperfection prevented his lending his whole influence to its support when he found that no better could be obtained. His discouragement of the proposal for a second convention to amend the instrument, from the apprehension that it might lead to the abandonment of what had been already secured, shows his foresight and appreciation of the great blessings which promised to follow the establishment of a good general government. We are apt to believe in the truth of imputations upon political adversaries upon slight evidence ; but the accusation that Hancock, from want of respect for Washington, or from an overweening conceit of his own consequence, was not at the Roxbury line to receive him upon his visit to Boston, is opposed to all probability. If his absence arose from the reason sometimes assigned, a conviction of the importance of preserving inviolate the idea of state sovereignty, it does credit to his wisdom. But the feeble state of his health, and inability to bear

exposure to the open air in a cool October day, is the more reasonable explanation, as it is the true one. Now that no object is to be answered by disparaging the character or political opinions of Hancock, it is time that candor should divest itself of the remnants of a prejudice so ungenerous.

Not only had Hancock himself been a liberal benefactor of the university, but the wealthy relative, whose fortune he inherited, had, besides other munificent contributions to its wants, endowed one of its professorships. In 1772 Hancock was created its treasurer. When he went to Philadelphia, for their greater security, he took the papers of the college with his own. His incessant duties as president of Congress did not admit of his return, and the professors, impatient for the interest upon the bonds, in 1777 sent a special agent to receive them. They were delivered, and Hancock generously defrayed the expenses of the messenger. With less regard to the injury such a step might do to the influence of Hancock, and likewise to the state, in Congress, than to have the college bonds in the custody of some one legally responsible, they immediately chose Mr. Storer in his place. He was, no doubt, greatly mortified; but other sufficient reasons can be assigned for his subsequent relations with the college than any feeling of resentment. There was a balance of some hundreds of pounds in his keeping. The Revolution had swept away all his ready means, involved him in great losses and heavy expenses for the public service, and his large real estate was quite unsalable. In the unsettled and greatly depreciated state of the currency, no rule of settlement would have satisfied both parties. When, in 1785, the improved state of affairs admitted of an equitable standard for adjusting the account, it was liquidated, and the balance secured by mortgage. This backwardness to satisfy a debt not in his power to pay without great sacrifice of property, is the only blemish upon the character of John

Hancock. Those disposed to condemn him should remember that he had contributed to the Revolution more than one hundred thousand dollars, and, after its close, devoted his means without reserve to every public object.

It has been charged against him that he was unduly fond of popularity; that he too sedulously courted its smiles, was too easily elated by its pleasing intoxication. Yet no instance can be fairly stated where any such weakness warped his judgment, or made him faithless to duty. Human virtue is a central point between extremes; the perfect path lies along an elevation inclining away on either side into vice or folly. But even here there is a choice. One slope is to the light, the other to the shadow. How much more creditable to Hancock to have rejoiced in the affectionate demonstrations of his countrymen, than if, insensible to their applause, he had withdrawn without response into himself, cold, proud and repulsive!

This is a brief and very imperfect outline of the public career of John Hancock. We may have done injustice to his memory by this feeble tribute; but it cannot suffer at our hands. It is a bright light upon the hill-top to cheer and encourage the oppressed, struggling for freedom, here and everywhere, now and to the latest generations. But, if his fame require no especial commemoration; if, with that of the heroes and sages raised up by Providence to do homage to the natal star of a great national existence, it is destined to survive both bronze and marble; we owe it to ourselves, and we owe it to our country, to pay to disinterested public service its most valued recompense, our grateful recollections.

Upon the decease of Mr. Hancock, "the old patriot," Samuel Adams, the lieutenant-governor, succeeded to the chief magistracy; a post he was annually elected to fill, with little opposition, for the next three years. In his messages and addresses he aimed to inspire his fellow-citizens with the same attachment which warmed his own breast for

sound republican principles. He advocated, untiringly, the diffusion of education, frugality of life and simplicity of manners. From his official position, Judge Sullivan had abundant opportunity of keeping in full glow the cordiality and good-fellowship which, since the close of the war, had subsisted, without interruption, between himself and Mr. Adams. This friendly tie was the stronger from their coincidence in opinion upon all points of public policy, and especially such as were connected with our relations to France; both, as stanch republicans, taking a lively interest in the progress of events in that country.

Many of the questions at issue between the republicans and federalists have been already mentioned. But the great disturbing cause, destined for many years to agitate the whole political world, was the French revolution. In her generous exertions in aid of our struggle for independence, France had caught the infection of freedom; but, not prepared for its healthy action, it destroyed without regenerating. In breaking free from her ancient despotism, unmindful of our example of moderation, and with no organized system to direct her energies, she wasted her strength in revenging the past, instead of providing for the future. She murdered her king, and slaughtered by hecatombs her priests and nobles. Madened by blood, she became furious and uncontrollable; and the futile attempts of the wicked and ignorant to seize the reins of power only accelerated her headlong plunge into chaos. Her brutal excesses and inhuman barbarities revolted her most enthusiastic supporters; and the spirit of liberty turned sadly away from a nation unwilling to receive her.

For her valuable aid to the cause of American freedom she was entitled to our gratitude. That she had been betrayed, by our example, into a condition so deplorable, demanded our commiseration; and, moreover, we were bound to her by treaty obligations. In requital for the

past, and partially, doubtless, with the view of strengthening our ability to resist future attacks, we had guaranteed to France her West India possessions, and granted her the privilege of sheltering her prizes in our ports; one we agreed to withhold from her enemies. Many of our most influential statesmen, from a conviction that she had been actuated to her exertions in our behalf by a wish to humiliate her rival, and hopeless of any beneficial results from her revolution, felt little inclination to make return beyond the letter of the compact. Others, more sanguine, with the hope that the existing anarchy would eventually settle down into constitutional government, and too generous to question motives for friendly service, would have extended not only encouragement to the cause of liberty in France, but active coöperation where consistent with our own security. The people, following their respective leaders, and excited by the eventful tidings constantly arriving from Europe, arrayed themselves on either side in nearly equal numbers, the federalist battle-cry being England and Neutrality, the republican, France and Universal Freedom. The cabinet was divided. Washington alone, neither republican nor federalist, rose high above all other considerations than the national interests and the dictates of wisdom and conscience. Mourning over unfortunate France returning blindfold to her fetters, and justly indignant at the dictation of England, then using her power for oppression, he guided the popular impetuosity into safe channels, and, in this difficult crisis, preserved our system from untimely dilapidation. His policy, inclining to neutrality, was, doubtless, the most judicious, and, under all circumstances, fully to be justified, but yet one for the country more consistent with prudence than with courage or generosity. Had we all, after Yorktown, for the benefits of peace or from dread of England, too readily lost faith in the possible establishment of constitutional liberty in France, it would have been a blot upon American honor. With the decided ascendancy

of either party we should have been precipitated into hostilities, to the great hazard of our independence and free institutions. Providence, reserving us for a happier destiny, kindly sheltered us under its wing, and ever working out its benevolent purposes by adequate causes, through the instrumentality of our own dissensions and the wisdom of Washington, saved us from entanglements imperilling our existence.

Not realizing how far her frightful disorder and domineering policy towards this country had loosened her hold upon the public sentiment, France sent over Genet as her minister, with express but secret instructions to embroil us in the war. Under his directions a force was raised in Carolina to attack the Spanish posts in Florida, and privateers fitted out at Charleston, Boston and on the Delaware, aided by two French frigates, *l'Ambuscade* and *Concorde*, captured fifty English vessels, many of which were brought into our harbors to be disposed of. One, the *Little Sarah*, fitted out for a French privateer at Philadelphia, was about to sail in July. In an angry discussion, upon the subject of the proposed detention, with Dallas, the secretary of state for Pennsylvania, Genet used expressions which, repeated successively to Governor Mifflin, Jefferson, Knox and Hamilton, Jay and King, were, with some slight exaggeration, construed into a threat to appeal from the president to the people. This offence, with other official improprieties, induced Washington, under the advice of his cabinet, to request the recall of the minister.

In August the *Roland*, another French privateer, sailed from Boston, and soon after returned with the *Greyhound*, an English vessel, as her prize. The agent of the English owner attempted to replevy the vessel; but at the request of Duplaine, the vice-consul, who had succeeded *La Tombe* at Boston, a force from the French frigate *Concorde*, then in port, resisted the marshal in serving his process, and placed the prize under the protection of the guns of the

frigate. When, a few days later, the *Concorde* sailed, the *Greyhound* was restored to her English owner. Duplaine was thrown into prison; but the federal grand jury three several times refused to indict him. The government, provoked at this high-handed resistance to an officer of its court, dismissed Duplaine, who, indeed, had been already superseded by the appointment of Dannery to his consulate. This interference of the French minister and the consular agents in our party contentions, and their manifest desire to foment a spirit of hostility towards England, demanded some signal check; and it cannot be disputed that the administration was entirely justified in resorting to the most extreme measures sanctioned by its constitutional power to express its displeasure.

An incident about this same period served to exasperate still further the leading federalists of Boston, who were not without great influence in the national councils. A French vessel arrived in the harbor of the town, with a large placard nailed to her mast, and on it an inscription threatening death to the most respectable citizens among the friends of neutrality, as aristocrats, setting forth their names. The gentlemen, thus opprobriously marked out for republican vengeance, went on board, and, tearing down the offensive placard, called the attention of the commander to the insult, who made most ample apology.

Sullivan saw with regret the current of public prejudice setting against France; and, from a belief that the liberties of Europe were involved in her revolution, deemed it of vital importance that the weight of our influence should continue to be directed to promote its success. It was from no want of due veneration for the wisdom of the president, or from any factious opposition to the measures of his cabinet, that he took an active part in the controversy in defence of Genet. He considered the candid discussion of public policy an essential duty in a free country; but was cautiously guarded against any expres-

sion reflecting reproach upon government. He argued, and undoubtedly from an honest conviction, that the power of dismissing a minister was incident to that of declaring war, and that both, under the constitution, had been lodged with Congress; that, however safe such a prerogative might be in the hands of a president like Washington, it was liable to abuse when left with one less wise and scrupulous.

John Quincy Adams, whose intellect was uncloudedly brilliant almost from the cradle to the grave, had graduated with distinction at Cambridge some six years before; and, after completing his legal studies with Mr. Parsons at Newburyport, was now engaged in the practice of his profession at Boston. Over the signature of Publicola he had already gained distinction as a writer for the press; and now, over that of Columbus, he published a series of able articles in the Centinel in support of the administration, and especially defended the propriety and constitutionality of the dismissal of Duplaine. Sullivan, in the Chronicle, over the signatures of Junius and Americanus, wrote in opposition, and questioned the propriety and the legal justification of the executive in dismissing a consul without first giving him a chance to be heard in his defence. He argued that the constitutional duty of the president to receive the representatives of foreign nations did not convey with it the right to dismiss them; that this power, according to the received authorities on public law, being also incidental to the war power, was, by the constitution, delegated to Congress; and that the clause extending the judicial action to cases affecting "ambassadors, other public ministers and consuls," intended that their rights should be established by law, and not left to executive discretion. He argued, moreover, that inasmuch as by our treaty of commerce we had granted to France the right of sheltering her privateers and prizes in our ports, Duplaine, if not justified in having placed the Greyhound under the guns of the frigate, had committed no offence deserving of disgrace.

Judge Lowell, the federal judge for the district, in his decree in a case somewhat similar, at this same period, admitted that he could not but say that if, under the treaty, French prizes were brought into our port, and were about to depart without unlading, it would be the duty of the government and the courts to restrain any judicial interference. As it does not appear that, at the time of the proposed service on the Greyhound, any intention had been manifested of disposing of her or of her cargo, if the view taken by Lowell was as correct as it certainly would seem to have been, Duplaine was evidently not obnoxious to any great degree of censure, even though the captors might have had a better remedy by appealing to the federal tribunals.

After the appearance of the second number of *Americanus*, Mr. Adams, in order to place his adversary between two fires, commenced another series of articles in the *Chronicle*, under the signature of Barneveldt, and their respective communications for many days appeared in the same sheet, and generally on the same page, pouring into each other vigorous broadsides of argument, often mingled with personalities. For some time the identity of neither combatant was known perhaps with certainty to the other, although various conjectures were hazarded, and there was considerable skirmishing outside the principal contest. The construction of the constitution ever since has left the entire control over both ministers and consuls with the president, subject to treaty stipulations. But Washington, in his message at the time, recommended to the consideration of Congress the expediency of providing for the government of similar cases in the future.

Mr. Adams, a few months later, was appointed our minister at the Hague, and this early distinction may be attributed to the learning and ability he had exhibited in this controversy. It produced no unfriendly feeling between the antagonists; on the contrary, Mr. Adams subsequently

expressed his acknowledgments for various opportunities afforded him by Sullivan of gaining distinction in his profession, his departure for Holland being deferred to the following year.

Great Britain was naturally incensed at the extension of privileges to France denied to her own subjects, and operating greatly to the disadvantage of her commerce. In retaliation she interfered, in direct violation of our neutral rights under the law of nations, with our trade between France and the French West India colonies, and stopped our ships laden with breadstuffs for French ports, obliging them to seek a market elsewhere. She impressed our seamen, subjected our flag to frequent indignities, and our vessels, seized by her cruisers upon frivolous pretexts, were condemned by incompetent courts in her colonies. Mr. Dexter having been unjustly reported to have underestimated in a speech in Congress the value of the carrying trade to the country, a public meeting was called by the republicans at Boston to express the actual state of feeling upon the subject. Sullivan took the lead in the debate, and was one of the committee to draw the report and to prepare resolutions expressive of the great advantages of the trade, and the importance of its being adequately protected. The federalists, not disposed to yield any advantage to their adversaries, made great efforts to defeat the movement. The adjourned meeting at the Old South was unusually stormy, and, after a very exciting debate, a motion to adjourn indefinitely, carried at dusk by a small majority, prevented the acceptance of the report. It was, nevertheless, published in the Chronicle, and probably expressed the sentiments of those who opposed it, many of whom were engaged in commerce, and realizing large profits from the trade, while others were great sufferers by the British spoliations, against which the meeting was called to protest.

In the hope of inducing Great Britain, by depriving her colonies of supplies upon which they mainly depended for

subsistence, to cease her depredations, Congress ordered an embargo for sixty days. About the period of its termination, towards the end of May, a meeting of the citizens of Boston was called to testify their approbation of the measure. Resolutions in favor of the expedient were passed nearly unanimously; but there was some earnest discussion between Sullivan, Jarvis and Austin, who advocated their adoption as prepared, and Jones, Higginson and Otis, who, by a proposed amendment, would have qualified the expression of a wish that the law should be continued. The embargo was not of sufficient duration to accomplish its object, the English colonies having been subjected to much less inconvenience than had been anticipated.

With a view to the same object Madison introduced into Congress his celebrated resolutions, proposing restrictions and discriminations in our trade with foreign nations. The discussion of the proposition assumed a party character, the federalists opposing and the republicans advocating the measure. Among others, Sullivan entered the lists, in defence of the resolutions, by contributions to the public journals.

These party heats and stirring incidents quickened the social pulse into fever, which the enormous profits, occasionally contrasted by equally severe reverses, in commercial enterprise, tended still further to inflame. With the development of trade, industry found ready employment, and property was rapidly accumulated; the war debt, which ten years earlier seemed insupportable, with prosperity and the judicious system of funding and finance matured by the sagacity of Hamilton, ceased to be a burthen. Continental paper and state scrip rose rapidly in value, and those who, during its depreciation, had had the prudence to preserve or to purchase, found themselves enriched. The salary of the judges had been paid in Massachusetts currency, and generally, to their prejudice, at a higher rate than that of the market. Sullivan had wisely laid a portion of his

own aside for better times, and now reaped the advantage of his foresight. He had no taste for accumulation, and, beyond a modest wish to be able to respond appropriately to all the reasonable demands of his family and of society upon his purse, attached no undue importance to the possession of wealth. It was rather from a wish to meet the exigences of his official position, and to afford suitable accommodations for the meetings of the various associations for charitable, literary and other public objects, of which he was the head, than from any fondness of his own for splendor, that, in the year 1793, he had erected the spacious mansion on Summer-street, which continued his abode for the remainder of his life.

The expansion of commerce, far beyond the limits of any previous experience, promoted litigation, and the lawyers participated largely in the general prosperity. Upon his circuits with the supreme court, whose sessions in the different counties occupied a large portion of the year, Sullivan was retained upon many of the important causes that came to trial. He had, besides, a large practice in the counties nearer home. Another interesting impeachment trial took place in Faneuil Hall, in the spring of 1794, in which Parsons and Otis were opposed to Sullivan as attorney-general. Frequent reference is made in the newspapers to causes in which he acquitted himself with credit, and of these the more remarkable will be mentioned elsewhere. Fees flowed in freely, and gave him abundant means for every desirable object of expenditure.

In the intervals of employment upon the eastern circuits he occupied himself with collecting materials for his history of Maine, which was published early in the following year. He had been one of the early founders of the Massachusetts Historical Society, originating in 1790, organized in 1791, and which was now about to receive its charter. The act of incorporation was prepared by him, and passed through the legislature under his superintendence. He

was joined with others in applications to the General Court in behalf of the Massachusetts Congregational Society, and other charitable institutions, for grants of land in the eastern country.

It was not from any love of speculation, nor to seek profitable employment for his own means, as he had but little to invest, but from a sincere desire to promote the public benefit, that he projected and was at this time busily engaged in carrying out many great public improvements. In the summer of 1793 he had been occupied as principal agent in connecting Cambridge and Boston by a bridge. It was one of the longest structures of the kind, that, up to that period, had been built anywhere; the distance of tide-waters to be crossed being nearly a mile.

In order to meet the urgent demands of our shipping in Boston for additional supplies of pure water, he started an enterprise, of which he was long the president and active agent, for an aqueduct from Jamaica Pond. To facilitate the transport of country produce and foreign merchandise between the city and the interior, he had been long busily occupied in providing capital, interesting the public, and procuring a charter for the Middlesex Canal, which he lived to see accomplished and in active operation. He was not only its president, but purchased the land, examined the titles, conducted the litigation, and was constantly in the saddle along the line of the work in active superintendence. It made a saving of nearly eighty miles of expensive transportation for freight between the upper country and Boston, most of it having previously found its way by Newburyport through the Merrimac; a course involving much delay, risk and needless expense.

These various projects and employments demanded much time, thought and labor, and involved heavy responsibilities. Unusual activity for public objects often awakens suspicions of ambitious or interested motive; but the character of Sullivan had been sufficiently marked by disinter-

estedness and readiness to sacrifice personal considerations to the general welfare, to prevent the possibility of ungenerous imputation. Holding the office in the state, and, indeed, in the country, best suited to his wishes and condition, and one not dependent upon election, he was not placed in competition with any rival. The majority of the influential people in the community about him entertained views opposed to his own upon many of the leading questions; but this impaired but little his personal popularity. In August a conflagration, originating in the rope-walks between what are now Pearl and Congress streets, in Boston, extended over a large area in that portion of the town. Delegates, generally the most distinguished and wealthy citizens, were appointed from the different parishes to collect contributions for the relief of the sufferers. Sullivan, one of the four from Brattle-street, had the honor to be selected their chairman, to preside over their meetings held in Faneuil Hall. To prevent any similar disaster the rope-walks were removed to the marshes, now the public garden, at the foot of the common.

His readiness to lend his aid to every benevolent object is somewhat curiously illustrated by an instance at this time in behalf of the brute creation. A truckman, irritated with his horse, beat him till he died. The circumstance either witnessed by Sullivan or coming to his knowledge, he presented the facts to the grand jury of the supreme court, which was then sitting in Boston, who found a bill. The indictment, drawn by Sullivan, was printed in the papers, and runs as follows: "The jurors for the Commonwealth of Massachusetts on their oath present, that G. J., of said Boston, truckman at Boston aforesaid, in the county aforesaid, on the twenty-fourth day of August instant, being a man of cruel and inhuman disposition, and not minding and regarding the due and proper use of the animals, which the great Creator of the universe has placed under the dominion of man for the comfort and support of the

human race; but indulging a cruel disposition of heart, and in order to gratify the unlawful rage and cruel inclination of his depraved mind, at Boston aforesaid, in the county aforesaid, on the day last above-mentioned, with force and arms, unnecessarily, wantonly and without any sufficient reason or provocation, did cruelly, inhumanly, outrageously and excessively, beat, bruise, mangle and torture, a certain horse of him the said G. J., then in use and labor in the truck of him the said G. J.; by means of which unnecessary, wanton and cruel beating, bruising and torturing, of the same horse, the said horse then and there instantly died. By which same excessive cruelty of him the said G. J., an evil example was set before others, who will offend in like manner, and before the rising generation of the same commonwealth, and the feelings of the good citizens thereof were hurt and injured; all which is against the peace of the same commonwealth, and the dignity of the same."

He never permitted his other employments to interfere with the conscientious discharge of his official duties; and what engrossed much of his attention at this period was connected with his functions as the public prosecutor. The object of criminal punishment is not so much vindictive, as, by a wholesome dread of consequences, to reform offenders and prevent transgressions. Among civilized nations ameliorations of their criminal codes have, at times, occupied the attention of humane and able minds; and Beccaria, Bentham and Romilly, are honorably distinguished by their philanthropic exertions in this direction. Prosecuting officers have favorable opportunities of watching the practical operation of the existing systems they aid to administer, and their opinions are entitled to, and generally secure, the respect of those engaged in legislation. From the character of Judge Sullivan it would be naturally inferred that this would be for him an interesting field of inquiry; and the statutes of his time and his published writings

abundantly prove he did not neglect it. Additional evidence of this is to be found in the travels of Rochefoucauld Liancourt, who visited America in 1795, 6, 7, and who speaks of Sullivan as having much at heart the mitigation of the criminal laws. He found him strongly prepossessed in favor of the plan of criminal jurisprudence recently introduced into Pennsylvania, and endeavoring to procure its adoption by Massachusetts. Both Hancock and Samuel Adams sympathized with these views of reform, and lent their powerful influence in bringing them about. Infamous punishments, such as cropping, branding, the pillory and ducking-stool, were in time abolished, and punishment shown to be more efficacious when less severe and more certain. Nor was their aim limited to improvements in legislation; but, following the prisoner to his cell and work-shop, such changes as rooted prejudices would admit were instituted in the jails and prisons.

Others among the many travellers who came from Europe to witness the scene of the American revolution, or who sought an asylum here from the excesses of that of France, published accounts of their experiences. A few years before the visit of Liancourt, Brissot de Warville was in this country, and made honorable mention of Sullivan in connection with Sumner, Wendell and Lowell, as not only eminent in professional life, but, notwithstanding a widely extended prejudice against lawyers, as generally popular. Brissot returned to France to take an active part in her revolution. He gave for a time his name to the Brissotins, or Girondins, pure patriots, who were animated by an elevated love of liberty and of their country, but who could make but an ineffectual struggle with the power and violence of the Mountain. Brissot himself was denounced by Robespierre for favoring a federative constitution with two parliamentary chambers, and expiated this devotion to constitutional government, a victim of the guillotine. Numbers of his compatriots, appalled by the horrors of the

reign of terror, took refuge from a like fate in America; and their presence contributed to keep in full glow the sympathy of our people in the events of their revolution. This sympathy pervaded the community, and all classes of Americans participated, some with hope and some with fearful forebodings, in the excitements and agitations which were convulsing France.

In this feverish condition of public sentiment upon the subject, it was not to be expected that even the sanctuary should escape. Political animosities invaded the pulpit; and clergymen, instead of preaching the gospel of peace and good-will among men, by their party harangues fanned into flame the elements of discord. In his sermons on the days appointed by the state and federal government for thanksgiving, Dr. Osgood, an able and influential divine, of Medford, entertaining extreme views of federalism, denounced the French revolution as leading only to evil, and insisted that the overthrow of the monarchy had led naturally to religious infidelity. He inveighed with bitterness against the constitutional societies existing in our principal towns and cities; and their members, among whom were many of the worthiest and most patriotic citizens, because they chanced to differ from himself in politics, he stigmatized as Jacobins. What was more objectionable, after loading them with opprobrium, he charged Governor Adams as being under their influence, and reproached him with hostility towards the general government.

These addresses, which hardly deserved the name of sermons, were printed in several editions; and, scattered broadcast over the land, were calculated to lessen the great popularity of Mr. Adams, and to create prejudice in the public mind against the cause of constitutional liberty in France. In order to counteract their poison, Sullivan published, a few weeks later, a sermon entitled "The Altar of Baal thrown down; or the French Nation defended against the Pulpit Slander of David Osgood. By Citoyen de No-

vion." It censured the unwarrantable interference of the clergy in secular controversy, defended the governor from the imputation of disloyalty to the federal government, and justified the principles upon which the societies had been organized; claiming the privilege of association for lawful purposes as essential under free institutions. He vindicated the right of the French people to accomplish their emancipation from their ancient thralldom as they best could under the circumstances they had to contend with, and argued that they were better judges of the necessities of their position than we could be. He controverted the position that the overthrow of the monarchy must lead to indifference to religion; and urged that, although the opinions of many might possibly become unsettled with the overthrow of their ancient church, they would soon return to the vital principles of Christianity, with their religious institutions liberalized and better regulated. The production was thrown off for the occasion, without much attention to its literary finish; but, while written with much animation and vigor, no expression could be fairly construed into a violation of the respect due to the sanctities of religion or its ministers. Such, however, was the prevailing asperity of feeling, that there were many disposed to condemn; and, strange to say, under a republican system for which we had been greatly indebted to France, to enter the lists in defence of her liberties required much moral hardihood.

Much, indeed, as that cause was losing favor with many among the most influential of his friends, this did not deter him from manifesting, whenever opportunity offered, his continued faith in its eventual success, or doing what little was in his power, by his countenance and example, to retain for it the sympathy of others. The close of the following letter to Governor Adams proves that his constancy to a cause he had once espoused was not easily to

be shaken. It is dated from Portsmouth, on the third of April, 1795, and is taken from the valuable collection of Adams papers now in the possession of our most distinguished American historian :

" I arrived here yesterday noon, and, it being the annual fast day of the state, I attended public worship with my friends in the after part of the day. We were entertained with a very serious discourse upon the national and public judgments with which nations are frequently visited in consequence of their vices and wickedness. The preacher very naturally let himself into the calamities under which the Capet family is now suffering, and considered the dispensation as obviously just, on account of the massacres committed by it on the French protestants. He also observed that hypocrisy is a sin very aggravated in the sight of Heaven ; that the late king of France, the nobles and dignified clergy, were deists, and that they had supported the Catholic religion by art and hypocrisy, as an engine of oppression upon the people, as a system of corruption, and a measure to prevent that light and information which have a tendency to render mankind free and happy. He concluded that, as the Christian religion is addressed to the interest and reason of mankind, and the people of France are left to act freely on this great concern, they will now become truly and sincerely Christians ; but that, if they shall not improve this unspeakable advantage, they must expect to be severely visited with judgments.

" The bells have this morning rung a merry peal of joy, salutes have been fired from the artillery, and the gentlemen of the town are repairing to a civic feast, served up at the town-hall, to celebrate the revolution in the Netherlands, and the accession of an important republic to the true interests of mankind. I shall partake of this feast among my old friends and acquaintances, with a cheerful readiness,

and leave you to conjecture the degree of happiness which I shall possess. I have only to add that the people are all united in this celebration, and that there is no party reluctant to it."

The president had sent Chief Justice Jay to London, to negotiate a treaty, which, signed in November, arrived here in the early part of 1795. Its provisions were probably the most favorable to be obtained from a nation flushed with power, and reluctant to grant concessions to revolted colonies, now its rivals on the ocean. The treaty was received with a general feeling of disappointment, deepened into angry opposition on the part of the republicans when the federalists, under the influence of Hamilton and Ames, enlisted in its support. A meeting called at Boston to pass judgment upon it, in which Judge Sullivan took an active part, was unanimous to condemn, and was followed up by disorderly demonstrations of popular discontent.

In June the schooner *Speedwell*, from Bermuda, supposed to have been engaged as a privateer in spoliations upon our commerce, was burnt at the Long wharf by a band of lawless individuals. In order to testify further their abhorrence of the treaty, for several nights in September large parties of rioters, and among them many boys, carrying on poles rinds of watermelons cut into the likeness of the human countenance, hideously distorted, and illuminated by candles, kept the town in alarm and commotion, breaking windows and threatening with personal violence the leading federalists. In their attack upon the house of Captain Wallack, the Jew, one person was shot and badly wounded. Two hundred of the principal citizens applied to Governor Adams for military interference to suppress the disorders; but he called it but a watermelon frolic, and refused to interfere. When, instead of subsiding, the turbulence of the rioters seriously endangered the safety of the town, Sullivan, as attorney-general, and Allen, high sheriff for Suffolk, went down to Liberty

Square, where a vast multitude had assembled round a large bonfire, bent upon mischief.

Having read the riot act, Sullivan remonstrated with the rioters upon the lawlessness and dangerous tendencies of their proceedings, and with such effect that when he finished his address they were persuaded by the more influential of their leaders to disperse. As he was moving off, surrounded by the crowd, some of the more daring, disposed to expend their resentment upon those who had thwarted their mischievous projects, made a violent onset upon him and the sheriff, from which they contrived with some difficulty to extricate themselves without serious injury. The Centinel, in commenting upon the affair, thus speaks of the existing state of excitement: "The laws prostrate, the magistrates literally trodden under feet, the peace of the town disturbed during the hours of the night, women and children frightened, and bonfires made in the centre of the town; oaths and imprecations, united with threats to tear the hearts of the magistrates from their breasts, and roast them at the fire." The organization of all the more orderly citizens into an association, to act under the authorities in suppressing tumults, in connection with the decided stand taken by Sullivan and the sheriff upon this occasion, are said to have put a speedy termination to the disorder. What is entitled a brief history of the disturbances and its causes, but which extended to a series of articles of sufficient length to fill a volume, appeared several weeks later in the Centinel, and was generally attributed to the author of Laco.

The country after a time quieted down into acquiescence in the treaty, though, to judge from the clever writings of Honestus Austin, in his *Old South*, published many years after, it still even then remained a subject of contention and recrimination between the parties. It is not to be denied that there were very serious objections to the treaty. It was particularly unseasonable; for France had, by the

overthrow of the Jacobins, and the adoption of a sensible form of government, just started upon a new era in her revolutionary history, which might have hardened into a permanent condition, had the continued support of America encouraged the friends of united liberty and law to persevere in their exertions. This treaty of amity with their enemies provoked their resentment, and soon plunged the two republics into actual hostilities. The treaty, moreover, was considered very unequal as between the contracting parties. It subjected our people to the payment of ancient debts, cancelled by the revolution, without the equivalent justice in return of restitution of our property carried off after the peace. It granted no important benefit to our trading interests, while, under the pretension of reciprocity, England secured valuable concessions for her own. Moreover, it left still at issue many important points of controversy, subjecting us for the next fifteen years to those insults and spoliations upon the ocean from English cruisers which finally culminated in the war of 1812.

In consequence of his resolute conduct in suppressing the September riots, one of the federalist papers intimated that Judge Sullivan approved of the treaty. Not choosing to be misrepresented, he addressed to the editor of the Centinel the following declaration of his views:

"In your paper of Saturday last you give your readers an extract from a New York gazette, wherein I am vouched as an authority that nine tenths of the people of this commonwealth are not hostile to the treaty proposed between America and Great Britain. What right the editor of a gazette has to use the name of a private citizen without his consent, I must leave it to you to determine. If the writer of that paragraph meant to represent me as saying that nine tenths of the people are pleased with the treaty, he is mistaken, for I never have expressed such an opinion.

"In conversation with some gentlemen from the state

of New York, long since it was known that the president had signed the treaty, I took the liberty to say that the gazette scribblers, who are constantly misrepresenting the federal government, as being in danger from combinations formed against it, are mischievously wrong; for that, notwithstanding any difference of sentiment respecting the constitution before it was established, the people of this state are firmly, heartily and universally, engaged in its support; that the people of this state are all convinced that the honor, the safety, the prosperity and happiness, of United America, as a nation, depend upon the existence of that government; that they are wise enough to know that they cannot be more free and secure in any political situation than under a government which is established by their own voluntary consent, and administered by a legislature and executive of their own election; that they want no change in the principles of their government, but delight in a representative republic, and hold all claims of authority by hereditary right, or in any way independent of the people over whom it is to be exercised, in contempt or abhorrence; and that, whatever their opinion may be in regard to the treaty with Great Britain, or upon any other measure in the administration of the federal government, yet they are by no means hostile to that government, nor would they consent to anything which would oppose the execution of its authority, or injure the national character of the Union.

"It is very probable that I said that nine tenths of the people of this commonwealth are of these sentiments; and I am confident that they are universally so. But as to their sentiments upon the merits of the treaty, I gave no opinion. This, however, I am sure of, that the citizens of this commonwealth are possessed of so much good sense and patriotism, that they will never oppose the government because they are not satisfied with the expediency or propriety of a measure, adopted in the administration of it.

I think that it is very unfair to use my name, on a subject of warm public controversy, without my consent; and, should it be done again, I shall not consider myself as obliged to take notice of it, unless the writer shall subscribe his own name to his publication. I am your humble servant,

“JAMES SULLIVAN.

“BOSTON, December 21st, 1795.”

CHAPTER XIV.

RIVER ST. CROIX.

DURING the siege of Boston, Washington had frequent opportunities of witnessing the patriotic exertions of Sullivan in the common cause. His indefatigable labors on committees of the Assembly, then convened behind the lines at Watertown, had been instrumental in sustaining the tone of public sentiment, in procuring men, money, and supplies of food, clothing and powder; and, in the performance of these multifarious duties, he had often been closeted in consultation with the commander-in-chief at Cambridge. When, in 1789, the president visited New England, though declining, for reasons not known, to serve as chairman of the committee of reception, he took the lead in the preliminary meetings at Faneuil Hall, and, during the presence of the chief in Boston, had enjoyed the privilege of being constantly near him. His brother John, as president of New Hampshire, paid the honors of that state, at Portsmouth, to his revered commander, who, undoubtedly, entertained for both brothers the most friendly sentiments.

General Sullivan, whose constitution had been greatly impaired by the hardships of his military campaigns, was appointed to the only post under the general government of which his health permitted the acceptance, that of federal judge for his state. The friends of James had indulged the hope that he would have been selected for the seat

upon the supreme bench of the United States, to which William Cushing was raised through the influence of Mr. Adams. If momentarily annoyed at this preference of another to the place which he would himself have gladly accepted, with his honorable position in Massachusetts, and constant and lucrative practice at the bar, this soon ceased to be a disappointment.

Upon republican principles no past services, however preëminent, unless united with superior qualifications for its particular duties, can create any title to office. But, where character and abilities sanctioned the acknowledgment of such pretensions, his readiness to meet them was one of the many excellences of Washington. In all likelihood it was a source of gratification for him now to be able, before his retirement to private life, to offer his old compatriot of 1776 honorable employment under the British treaty, which he could accept without sacrifice of present office or professional prospect. Perhaps, too, if the frank expression of sentiment in the address to the public at the close of the last chapter had not escaped his notice, this also may have had its weight in confirming the selection.

On the thirty-first of May, 1796, Colonel Pickering, the secretary of state, gave Judge Sullivan the following notice of his appointment: "I have the honor to enclose your commission as agent for the United States, to maintain their interests before the Board of Commissioners, who are to decide what river is the river St. Croix, according to the fifth article of the treaty of amity, commerce and navigation, with Great Britain. I hope it will be agreeable to you to accept of this important agency. Such instructions as have in the first instance occurred, you will also find enclosed. It has been suggested to me, by Mr. King, that formerly some documents on the subject were transmitted from Massachusetts to the department of state, or to the old Congress. I will search for them, and for what-

ever other evidence this office can exhibit. Thomas Barclay, Esq., the commissioner on the part of Great Britain, has lately been here, and I expected to have conversed with him; but he suddenly returned to New York. Mr. Liston tells me, however, that Mr. Barclay will remain for some time at New York; for which reason I have suggested the propriety of a meeting between him and Mr. Howell. Both have been written to accordingly. Perhaps they may agree on the third commissioner, a secretary, surveyors, &c., and fix the time of meeting at Halifax."

This letter was accompanied by the following instructions: "Your researches as the historian of the district of Maine, your reputation as a lawyer, and your official employment as the attorney-general of Massachusetts, the state directly and most materially interested in the event, have designated you as the agent of the United States to manage their claim of boundary where their territory joins that of his Britannic Majesty, in his province of New Brunswick, formerly a part of his province of Nova Scotia.

"You are apprized that the question to be examined and decided is stated in the fifth article of the treaty of amity, commerce and navigation, between the United States and his Britannic Majesty. The quantity of land, the title of which depends on this decision, is an object so interesting as to demand an accurate and thorough investigation of the claims of the two nations. It is supposed that you are already possessed of important documents concerning them; but it is desirable that you should diligently inquire and search for any others which public records or other repositories, public or private, may have preserved. The pending decision is to be *final*. Great industry, therefore, will be necessary to collect, and much diligence and ability required to arrange and enforce; the evidence in support of the claim of the United States. Besides written documents, it is possible that living witnesses, if carefully sought for, may yet be found, whose

testimony may throw much light on, if not positively establish, our claim. To obtain these, if they exist, as well as all written documents, the president relies on your diligent research and inquiry; and, in the application of them to support the interests of the United States, he assures himself of the utmost exertion of your ability. The declaration of the commissioners concerning their decision on the question submitted to them, the statement of their accounts, and the journal of their proceedings, they are to deliver to you; and you will be pleased to transmit the same to this office as soon afterwards as a safe conveyance shall present. The compensation for your services will be at the rate of one thousand pounds sterling a year. The enclosed estimate will show what expenses have been contemplated as likely to arise in the execution of this article of the treaty."

Gratified by this mark of confidence from one for whose exalted character he shared in the general veneration, Sullivan gladly accepted the agency, and applied himself with his accustomed assiduity to his appointed task. Upon his application the General Court passed a resolve to furnish him with all documents in the state archives bearing upon the boundary; and he visited the upper part of New Hampshire to confer with persons whose evidence as to the point in controversy might possibly prove of value. His letters to Judge Howell, of Providence, Rhode Island, the American commissioner, with whom he had long been intimate, and to Mr. Pickering, secretary of state, were constant; and in this correspondence appropriate modes of procedure were determined upon, and all the preparatory arrangements for procuring surveyors, books and instruments. The question, who should be the third commissioner, with Howell and Colonel Barclay, the latter appointed by Great Britain, to constitute the tribunal to decide, was deferred till their arrival, in August, at Halifax, the place selected for the first meeting, from its proximity

to the territory in dispute. Arrangements were made with Mr. Webber, professor of astronomy at Cambridge, and with Samuel Titcomb and John Harris, engaged as surveyors, to accompany the party. The college loaned the necessary instruments, and the sloop Portland Packet was chartered for the voyage. While preparations are being made for their departure, let us consider briefly what was the question to be decided.

In the spring of 1779, England, unequal to the formidable array of nations disposed to side with France in the contest, endeavored to allure her revolted colonies into a separate peace. Informal propositions, sanctioned by Lord North, were submitted through David Hartley to Dr. Franklin, our minister at Paris; but, as they involved a breach of compact with France, they were rejected without hesitation. In the autumn John Adams sailed for Holland, and carried from Congress powers to negotiate, should more acceptable overtures be made. In his instructions he was directed to insist upon the St. John's as our eastern boundary, with permission, if this proved impracticable, to fall back upon the St. Croix. The two following years, while hostilities continued without cessation, European diplomacy was occupied with offers of mediation by Russia between England and France, with proposals for a congress at Vienna, and various other efforts at pacification; all of which were without any practical result. The accession of Holland to the ranks of her enemies, the armed neutrality of 1780 of the northern nations leagued to cripple her supremacy on the ocean, her exhausted finances, and finally the surrender of Cornwallis at Yorktown, forced at last upon England the conviction that her colonies were irrevocably lost, and counselled her to peace. Lord North, who would have persisted in the war, was out-voted in Parliament, and the Marquis of Rockingham, Lord Shelburne and Mr. Fox, who favored more pacific counsels, were placed at the head of the government. Oswald was

sent by Shelburne to Paris to confer with Dr. Franklin, who was joined, in June, by John Jay, and later by John Adams and Henry Laurens. These gentlemen, with Jefferson, who remained in America, had been appointed by Congress, in June, 1781, to treat for peace. On the question of boundaries they were to be governed by the instructions to Mr. Adams, of August fourteenth, 1779, and October eighteenth, 1780.

In their early conferences Franklin strove to persuade Oswald, and afterwards Grenville, who came with general powers to negotiate, that Canada and Nova Scotia could prove but a burden and expense to Great Britain, and ought to be yielded as a peace-offering to the United States. From the encouragement given to these views by the British envoys, the commissioners indulged sanguine expectations of these important territorial concessions; but were prevailed upon by Mr. Grenville to defer their discussion till towards the close of the negotiations. The tidings of Lord Rodney's victory over De Grasse, in the West Indies, reviving hopes in the king that he might yet retain all his colonial possessions, led to a temporary change of policy; and, upon the death of Rockingham, Fox, who favored the immediate and unequivocal acknowledgment of American independence, left the cabinet.

The conferences, however, still went on; and Shelburne, as far as permitted by the king, continued disposed to conciliate. Many weeks were consumed in consultation upon various plans of adjustment. While Parliament was engaged in passing a bill enabling the crown to negotiate, the other belligerents, who were to be united in the general pacification, were settling their preliminary arrangements. The first commission to Oswald, of the seventh of August, 1782, not contenting Mr. Jay, on the ground that it did not directly acknowledge the independence of the states, another, obviating this objection, was issued on the twenty-first of September. A month later Mr. Adams,

after signing a treaty with Holland, reached Paris, and negotiations were commenced and prosecuted with vigor. Mr. Strachey, private secretary of Shelburne, and Mr. Fitzherbert, who had been commissioned to treat with the other powers, took part also in the deliberations.

Whatever might have been earlier the willingness of the friends of America in England to enlarge our limits, by the surrender of Canada and Nova Scotia, no such disposition was now manifested by Lord Shelburne in the actual negotiations. Probably with a view of abating any such unreasonable expectations, when the subject of boundaries came up for discussion, an ancient clerk appeared from the office of trade and plantations, with documents to prove that even Maine was no part of Massachusetts, and that our proper frontier was the Piscataqua. Finding this position utterly untenable, the British diplomatists contended, upon the same plea, for the Kennebec, and then again for the Penobscot. Ten years before, Adams had made an elaborate report to the provincial legislature of Massachusetts upon the old charter titles in connection with the Hampshire grants, and had come to Europe armed with abundant evidence to carry our territory as far east as Nova Scotia, which the patent to Alexander bounded west on the St. Croix. Upon the production of his proofs, the point was finally yielded; and, with Mitchell's map before them for their guidance, on which a river of that name was plainly defined as the largest stream between the Penobscot and St. John's, and as entering Passamaquoddy Bay at its north-east corner, the St. Croix was established as the boundary. Mr. Adams well knew the question was still open what particular stream was best entitled to this designation; but, persuaded it would be no difficult matter to ascertain its identity, and, indeed, confident it would be found to be the St. John's, was too well contented with the concession of all that could be reasonably demanded, to embarrass

ulterior negotiations by attaching unseasonable importance to this point.

The fisheries and reparation to the loyalists being satisfactorily adjusted, the preliminaries of peace were signed on the thirtieth of November, 1782, by Mr. Oswald for Great Britain, and for the states by Franklin, Adams, Jay and Laurens, the latter of whom arrived in Paris the day before the signature. Unreasonably, as it subsequently proved, distrusting the disposition of the French government to further their views to their full extent, the commissioners omitted to consult Vergennes before signing the articles, much to the displeasure of that minister and his amiable monarch, and in direct violation of their own express instructions from Congress. The terms of the treaty gave more satisfaction here than in England; and, when in March it came up for consideration in Parliament, the extremes of opposition, Lord North and Mr. Fox, aided by Burke and Sheridan, attacked it with great vehemence, and drove Lord Shelburne, though defended by Pitt with all his hereditary eloquence, from the ministry.

The north-eastern portion of the boundary, as described in these articles, and in the treaty of peace which was signed the following September, commenced "at the north-west corner of Nova Scotia, namely, that angle formed by a line drawn due north from the St. Croix river to the highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean;" and, after running along these highlands and circling the states, closed with "east by a line drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands."

Six days after signing the provisionary articles, Dr. Franklin, at Passy, wrote Vergennes the following note, found by President Sparks, sixty years afterwards, in the French archives: "I have the honor of returning here-

with the map your excellency sent me yesterday. I have marked with a strong red line, according to your desire, the limits of the United States, as settled in the preliminaries between the British and American plenipotentiaries." Pursuing further his researches, Mr. Sparks found, among the sixty thousand maps in the geographical department at Paris, a map of North America, by D'Anville, dated 1746, in size about eighteen inches square, on which was drawn a strong red line throughout the entire boundary of the United States, answering precisely to Franklin's description. The St. Croix is marked upon this map as the boundary; but the north line, after departing from the source of the St. Croix, instead of proceeding to Mars' Hill, stopped far short of that point and turned west, so as to exclude from Maine all the waters running into the St. John's.

Copies of these documents were submitted to the senate in 1842, while deliberating upon the ratification of the Ashburton treaty; and, though there was no positive proof of the identity of the map with that mentioned in the note to Vergennes, there could be little reasonable doubt that it was actually the one sent by Dr. Franklin. When the investigation now under review was undertaken, owing to the confused condition of affairs in France, any attempt to procure this evidence would have been fruitless, even had it been known to have existed. President Adams, in reply to inquiries made by Sullivan, under the commission, as to his recollections, said the only map used by the envoys in the negotiation was that of Mitchell; that the river marked on that map as the St. Croix was the one agreed upon as the boundary; and that no new boundary was intended, but simply what was rightfully the eastern limit of Massachusetts.

But all that region of Maine beyond the Penobscot, except some small settlements along the coast, was still a wilderness, occupied by Indian tribes. What surveys had been made were partial and inaccurate, and wide discrepancies

existed between the actual course of the streams and their map delineations. Other embarrassments still further perplexed the question. While upon the several maps the name of St. Croix was attached to different rivers, not one of these in its neighborhood was familiarly known except by its Indian title. Of the three which had been most generally claimed as the boundary, neither emptied into the Bay of Fundy, as described in the treaty, but all of them into a smaller bay, called Passamaquoddy, the opening of which was considered the mouth of the St. Croix by Dr. Franklin and his associates in 1782. This bay, some twenty miles wide at its mouth, from Quoddy Head to Beaver Harbor, and ten miles deep, lay at the south-west corner of the Bay of Fundy, and into it fell the Magaguadavie upon the north-east, a small stream called the Cobscook at the south-west, and between them a much larger stream than either, known as the Passamaquoddy or Schoodiac, formed by the confluence, ten miles from its mouth, of two branches. The westerly one of these flowed nearly east through the Schoodiac lakes, its source being within six miles of the waters of the Penobscot, whilst the other, called Cheputnaticook, and finally decided by the commission as the St. Croix, was the more important branch, and, forming various broad sheets of water in its course, came down from the north.

In default of other tests for the solution of these complications, recourse was had to such record as remained of the visit to Passamaquoddy by De Mont, with whom this vexed question may be considered to have originated. This gallant gentleman of the bed-chamber to Harry of Navarre, received from that monarch a commission as lieutenant-general of all the territory of L'Acadie, from the fortieth to the forty-sixth degree of north latitude, with power to subdue the inhabitants, and convert them to the Christian faith. On the seventh of March, 1604, having equipped two vessels, he sailed, with Champlain for his

pilot, and Poutrincourt, the founder of Port Royal, now Annapolis, and other gentlemen of station, for his companions, to take possession. Sailing up the Bay of Fundy, after exploring for fifty leagues the St. John's, and being extremely delighted with the vast quantity of grapes which grew on its banks, they coasted along the north-west coast of the bay twenty leagues, till they came to a "great river, properly a sea, where they fortified themselves on a little island, seated in the midst of this river, which Champlain had been to discover and view; and, seeing it strong by nature, and of easy defence and keeping, besides that the season began to slide away, and therefore it was behooveful to provide for lodging, without running any further they resolved to make their abode there." "This island was in the mouth of a river formed, two leagues higher up, by streams which came crosswise to fall within this large branch of the sea; and from this circumstance De Mont called it the Isle de St. Croix." It was half a league in circuit, with a small islet severed from it toward the ocean and the south, where he planted his cannon, and upon the other side towards the north he built his fort, looking up the river, which is described as thrice as broad as the Seine. Want of wood and water, and constant vigilance against attacks of the savages during the severities of a hard winter, were serious discomforts to courtiers studious of their ease; but they managed to entertain themselves, and, among other contrivances for the convenience of D'Orville, Champlain and Champdore, a gallery for exercise was erected. In the spring, De Mont, leaving the bay in search of a milder climate, coasted along the shore as far as Cape Cod, and, returning to Port Royal, sailed in September, 1605, for France, leaving his companions to complete the settlement.

The narrative of L'Escarbot, the historian of this voyage, from whom most of these particulars are taken, is so minute as to the forms of the rivers, islands and neighboring moun-

tains, that the identity of the Isle de St. Croix with that in the mouth of the Schoodiac, hardly admitted of a doubt. But, even admitting the question settled as respected the island, it was not a necessary consequence that the Schoodiac, at the mouth of which it lay, was the veritable St. Croix. Catholic devotion had planted the cross at many points along the coast, and the Magaguadavie shown to Mitchell by the Indians in 1764 for that river might have derived its name from some tradition of this sort.

The early writers, Champlain, L'Escarbot and Purchas, Charlevoix, Castle and Douglas, though minute in the description of the island, furnished little that was conclusive as to the river. The ancient maps, that of Captain Smith in Purchas, 1625, Mordan's, made in the reign of Charles II., Thurstan's in that of William and Mary, gave this river as the common boundary of New England and Acadie, but were not sufficiently exact to throw much light upon the controversy. On Mitchell's map, 1746, used by the commissioners in 1782, the St. Croix is drawn as issuing from Lake Keonaki, a name not then known in connection with any sheet of water on the Schoodiac, and as running south, without branches, into the bay; whilst a smaller stream, called the Passamaquoddy, enters further west. This map was merely taken from that of Captain Cyprian Southac, who was familiar with the coast, and who gave the soundings of the Passamaquoddy as twenty fathoms, a depth answering to that found in 1796, and those of the St. Croix as nine fathoms, actually that of the Magaguadavie.

Alexander sold his province in 1624 to the king of France, and it was long afterwards known as Acadie. Captured by the English in 1628, 1654 and 1689, it was as often restored by the treaties of St. Germain, 1632, of Breda, 1667, and at the peace of Ryswick in 1697. During the French occupation continual efforts were made to extend its limits towards the Penobscot, whilst the English would have restricted them to the St. John's. After the treaty

of Breda, the English commander, when directed to yield up the province, refused at first to surrender Pentagoet or Penobscot, St. John's and Port Royal, as belonging to Massachusetts. When again the two former were taken possession of by expeditions from Boston, upon the same pretension, in 1674 and 1680, it was only in pursuance of orders from home that they were restored. At the peace of Utrecht, in 1713, Acadie was ceded to Great Britain, and, by that of Aix la Chapelle, Cape Breton given back to the French. Under the latter treaty commissioners were engaged from 1750 to 1755 in settling, among other matters, the limits of Acadie; the English now in turn insisting upon its extension to the Penobscot, and the French upon its restriction to the peninsula now constituting the province of Nova Scotia. This Gordian knot was destined to be loosed by the sword; and their negotiations, of which the records fill four large quarto volumes, being abruptly terminated by a fresh war, the result was the final relinquishment, by the treaty of Paris, or Fontainebleau, of Canada and the remaining French possessions, with slight exception, to the British crown.

Various commissions of royal governors, proclamations and statutes, had recognized the St. Croix to be the boundary between Massachusetts and Nova Scotia, as originally established in the grant of King James to Alexander, in 1621. In his patent the western boundary of this province is described as the St. Croix to its remotest source which first from the west flowed into that river, and from this source on a straight imaginary line towards the north to the waters which fell into the river of Canada, or the St. Lawrence. It was upon the strength of this description that the English supported their claim to carry the source of the St. Croix to the near neighborhood of the Penobscot.

Some additional confusion had been created, in 1764, by an attempt of Sir Francis Bernard, governor of Massachusetts, and Governor Willicut of Nova Scotia, to settle the

doubt for themselves. The former sent down two surveyors, Mitchell and Jones, to identify the river constituting his eastern boundary. They collected some forty Indians on L'Atereel Island, in Passamaquoddy Bay, whose chief deputed three of the number to show the strangers the St. Croix; and they pointed out the Magaguadavie as that river. Correspondence ensued between the governors, and, perhaps in order to settle the controversy, Bernard and others received from Governor Willicut a grant of one hundred acres, between the Passamaquoddy and Cobscook, as part of Nova Scotia; an admission, as far as it rested with the provincial authorities, that the latter river, the most westerly of the three contended for, was the St. Croix.

Immediately after the peace of 1783, grants were made by the province of Nova Scotia, then comprising New Brunswick (erected the next year into a separate province), of territories bounding west on the Schoodiac, to the refugee loyalists. Pretensions were set up by the provincial authorities as far west as the Cobscook, and American settlers on Moose and other islands in the bay summoned to do jury duty at the courts held at St. Andrews, a town built on the east bank of the Schoodiac, by the loyalists. They were in some other respects treated as British subjects by the officials of the province; upon which they made complaint to Governor Hancock. Generals Lincoln and Knox, who owned large tracts of land in that district, were sent down to the frontier to remonstrate, and application was made to the general government that redress might be sought through John Adams, our minister in London. For the next eight years correspondence and controversy were incessant, and not without frequent approach among the borderers to serious collisions.

Vigorous efforts were instituted to ascertain the bound; and, among others, General Rufus Putnam, who had recently made by authority surveys and investigations, was

consulted. He stated as his conclusion, upon view, that the only consistent construction of the treaty was to consider the opening of Passamaquoddy Bay as the true mouth of the St. Croix; that the line, starting from the central point between its capes, would divide the islands justly between the two countries, and harmonize with the rest of the description; and, moreover, that this construction was confirmed by the fact that the bay, though set down as Passamaquoddy on Mitchell's map, was not mentioned in the treaty. As to the particular branch to be considered the St. Croix, the Cheputnaticook, finally decided upon, seemed best to meet the requisitions. He estimates the territory between the two rivers, in straight lines from their sources, as one hundred and twenty townships of six miles square, or one million six hundred thousand acres. The depositions of Mitchell, and Nathan and Israel Jones, testified as to the survey of 1763, and the Indian statement in favor of the Magaguadavie.

From this controversy and other causes war appearing imminent, Washington, in 1794, sent Jay to London upon his mission of peace. For the adjustment of the boundary question no one could have been more happily selected. A negotiator of 1772, he had twice, as secretary of foreign affairs, reported to Congress upon the appeal of Massachusetts for protection against these encroachments. The fifth article of his treaty, dated November, 1794, provided that, "Whereas doubts have arisen as to what river was truly intended under the name of the river St. Croix, mentioned in the treaty of peace, and forming a part of the boundary there in described, that question shall be referred to the final decision of commissioners, to be appointed in the following manner: one commissioner shall be named by his majesty, and one by the president of the United States, by and with the advice and consent of the senate thereof; and the said two commissioners shall agree upon the choice of a third; or, if they cannot so agree, they shall each propose one per-

son, and, of the two names so proposed, one shall be drawn by lot, in the presence of the two original commissioners; and the three commissioners so appointed shall be sworn impartially to examine and decide the said question according to such evidence as shall respectively be laid before them on the part of the British government and of the United States. The said commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. The said commissioners shall, by declaration under their hands and seals, decide what river is the river St. Croix intended by the treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statement of their accounts, and of the journal of their proceedings, shall be delivered by them to the agent of his majesty, and to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of their respective governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called in question, or made the subject of dispute or difference between them."

Under this article a mixed question, partially geographical, in part historical, was to be judicially determined. Sullivan was of opinion, from the first, that in the obscurity of description and conflict of evidence, complicated as it was by national feelings and private interests, the only reasonable solution which was likely to prove satisfactory to all parties was through negotiations. But this having been differently decided, he undertook his share of the task, as appointed.

Placing on board the packet their books and instruments, Judge Howell and Professor Webber, Judge Sullivan and

his son, with Mr. Sanger of Baltimore, whose property, captured by a British cruiser, was in litigation before the admiralty court at Halifax, sailed on the eighteenth of August, and arrived in four days at their destination. An American vessel, in consequence of the interruption of trade, was so unusual an appearance in that port, except as a captive, that they were hailed from the port with the inquiry to what ship they were prize. They were received with great hospitality and kindness; and, the Duke of Kent being present, sumptuous entertainments were made in their honor, especially by the refugee loyalists. Colonel Barclay and Ward Chipman, the English commissioner and agent, soon agreed with the Americans, that Egbert Benson, of the supreme bench of New York, should be the umpire, and a vessel was despatched to bring him to Passamaquoddy.

After having the satisfaction of hearing a decree in favor of Mr. Sanger, their fellow-passenger, they left Halifax, and, encountering a heavy north-east gale, were driven into Mount Desert harbor, where they met a variety of entertaining adventures, and from thence proceeded to St. Andrews. This was then a long, narrow village of one-story houses; and, making it their head-quarters, Howell and Sullivan, by boat expeditions, explored the rivers claimed as the St. Croix. They found the western river large and navigable far up; the eastern small, and after a few miles interrupted by falls. Upon their invitation Indian chiefs came down to the bay, and confirmed the information, obtained in 1764, as to the Magaguadavie. Their testimony was so direct and positive that Sullivan felt assured it was not susceptible of refutation. It was of course his duty to sustain the view most to the advantage of his clients; but, inasmuch as the name given to a river in its neighborhood best identifies it, this evidence of the Indians gave him great confidence of success.

After the arrival of Judge Benson, on the twenty-fifth of September, the whole party explored together, for ten

days, the bay and rivers, and ordered surveys to be made. In the river Schoodiac, opposite to the north-east corner of what is now called Robbinstown, they visited an island, whose situation and aspect bore strong resemblance to the description given by L'Escarbot, Charlevoix, and the other French writers, of the island of St. Croix, where De Mont's party passed the winter of 1604. Near the upper end of it were the remains of a very ancient fortification, overgrown with large trees, where old bricks were found, and where the foundation stones were traced to a considerable extent. This strengthened much the pretension of the British agent that the Schoodiac was the St. Croix, although at the mouth of the Magaguadavie was another island corresponding in some respects to the same description.

The passage homewards was extremely agreeable, Judge Howell, who was celebrated in his day for wit and anecdote, proving a most entertaining companion. A French fleet of eleven sail of the line and eight frigates was hovering off the coast, threatening Halifax, but did not come near them. They left the vessel at Portland, and continued their way by land.

Again at home, Sullivan devoted much care to the preparation of his argument, collecting all the histories, travels, maps and documents, which could contribute to establish the Magaguadavie as the actual St. Croix, and that intended by the treaty. He would have placed the mouth of the river at the opening of the bay; but, finding this would hardly strengthen his position as to its continuation up by the eastern stream, the smaller of the two principal tributaries of the bay, he abandoned this ground, and contended for the Magaguadavie. Col. Pickering, whose correspondence fully justifies his high reputation as an able statesman, procured for Sullivan many valuable books, and among others, after sending for them without success to Europe, borrowed from the library of Jefferson copies of Champlain and L'Escarbot. In the spring of 1797 Sullivan pub-

lished in the Chronicle the following account of their proceedings:

"In a matter wherein the interest of the state is much concerned, our readers may wish to know its true situation. In the month of August, 1796, the two original commissioners, Mr. Howell and Mr. Barclay, met at Halifax, in pursuance of the fifth article of the treaty of amity, commerce and navigation, with Great Britain. The two commissioners, on the twenty-ninth of that month, appointed by choice, not by lot, the Hon. Egbert Benson, one of the judges of the Supreme Judicial Court of the state of New York, the third commissioner. On the twenty-sixth of September Mr. Benson arrived from New York, and met the other commissioners at St. Andrews, near the mouth of the two rivers for which the parties contend as the boundary. These rivers are four leagues apart at their mouths where they empty their waters into the Bay of Passamaquoddy, near the Bay of Fundy, but they diverge one to the west and the other to the north, so that their heads or sources are at a great distance from each other.

"On the fifth of October the commissioners took the oath as required by the treaty; and appointed Edward Winslow, Esq., of Frederickton, formerly of Plymouth, in Massachusetts, secretary to the board, and the oath of fidelity was administered to him. The board being thus formed, the agent for the United States filed his memorial, requesting that the easternmost of the two rivers, called by the native Indians Magaguadavie, should be declared to be the river St. Croix truly meant and intended under that name as the boundary mentioned in the treaty of peace made in 1783, and proposing to offer evidence and argument to support his memorial, if the agent of his Britannic Majesty should deny that to be the river intended in the treaty of peace as the river St. Croix.

"The agent for his said majesty being served with a copy of that memorial, filed another on the behalf of his govern-

ment, therein stating that the western of the two, by the native Indians called Schoodiac, was the St. Croix truly meant and intended under that name in the treaty of peace; and requesting that the board would declare that to be the river so intended, and assigned divers reasons and arguments in favor of his memorial.

"The source of the river is very important in the business, because the lines, by the treaty to be drawn due north from the sources of the two rivers above-mentioned, will be about sixty miles from each other, and extend from the sea nearly one hundred and forty miles.

"This distance of the two rivers is as they are severally stated by the agents in their several claims. The British agent claims the most western of the Schoodiac lakes, which is near the river Penobscot, as the source of the river Schoodiac; and the agent for the states claims a place on the Magaguadavie as the source of that river. Which is right, or whether either is so, is to be determined by the board. The commissioners are obliged to declare which is the river truly intended as the St. Croix in the treaty, and to determine the latitude and longitude of its mouth and source. To this end surveys of both rivers became necessary; and one surveyor from the United States, and one from the British government, were appointed to survey each river. These artists returned from the business on the last of November, not having then completed their work.

"The commissioners, after taking the testimony of some Indians, produced by the agent of the United States as witnesses, and after determining on the mode of admitting evidence, establishing the rates of wages for the artists and laborers employed, adjourned to meet in Boston on the second Tuesday of August, 1797. It is agreed and determined that the arguments shall be in writing, filed by way of memorial before the board, stating the evidence; and that the secretary shall prepare and deliver one copy

of the whole to the agent of each nation, to be by him delivered to his government. The argument on the part of the United States is directed to be forwarded to the agent of his Britannic Majesty by the first day of February, 1797, that he may have time to prepare his reply. By this mode of procedure the public will have on paper the proceedings of a judiciary tribunal appointed to decide between two sovereign and independent nations upon a cause of magnitude and importance. Why shall not all the nations on earth determine their disputes in this mode, rather than choke the rivers with their carcasses, and stain the soil of continents with their slain? The whole business has been proceeded upon with great ease, candor and good-humor."

In the early part of July a party of Passamaquoddy chiefs were in Boston, probably in order to give their evidence. In August the commissioners met, and, lodgings being procured for them by Judge Sullivan, according to arrangements made the previous fall at St. Andrews, on Water-street, near Fort Hill, they remained for some weeks together, hearing the memorials, examining the evidence, and adjusting preliminary points; but the surveys were not sufficiently advanced to admit of a decision. They were present at a dinner given to President Adams, at Faneuil Hall, and soon after adjourned to meet at Providence the following June. It was agreed to recommend to their respective governments an explanatory article to the treaty, that the source of the St. Croix should be marked by a monument, and not by its latitude and longitude.

Heavy snows in the woods, late in the spring of 1798, retarding the surveys, the meeting at Providence was deferred till September, when the commissioners assembled and continued together many weeks. The last maps and plans made their appearance about the middle of October, from Israel Jones, one of the surveyors in 1764. General Lincoln, who was a large proprietor on the Cobs-

cook, accompanied Sullivan to the meeting. The following letters convey full information of the proceedings and the final result; and, indeed, that which follows, to Judge Parsons, would have been in itself the best narrative of the whole controversy, did it not omit some particulars it was thought might be useful for its thorough understanding.

"On my arrival here, last evening, I received yours of the thirteenth, and hold myself engaged for your friend accordingly. I thank you for your good wishes on my St. Croix agency. I am alone in my house this evening, my family having all fled from the fever. This may apologize for my troubling you with a few words on this controversy. I now sketch and enclose you a view of the claims.

"The English government found their claim on ancient history, and on acts of state, both of the English and French governments. De Mont came into the Bay of Passamaquoddy in August, 1604. Champlain was with him. In his narrative of the voyage he says, from St. John's, they came to the islands of Margos, now called the Wolves (C & D). Here is a great river of the great nation of the Etchemins. He says, further, there are here a great number of islands, as in (*a cul de sac*) the bottom of a bay, and a river wherein are two islands, where De Mont wintered. The islands are in the Schoodiac, marked (00). There is no doubt in the evidence but that De Mont wintered on one of these islands. He describes the falls above, marked in black ink (=), and says, this is the river of the Etchemins, on which you may go to St. John's and Penobscot. By this he means both branches, because the north is the route to St. John's river, and the south to Penobscot. In the next chapter, having never before mentioned the river St. Croix (but having only said that De Mont called the island where he wintered St. Croix), he describes his voyage by sea west to Penobscot, and

says, leaving the said river St. Croix, he passed by a great number of islands, which we called Range Islands, and by another which we called Mount Desert. These islands are all leagues west of Passamaquoddy Bay; so that, by his expression, leaving the said river St. Croix, he may mean to describe the Bay of Passamaquoddy, with all or either of the rivers connected with it, or the bay alone; he had mentioned no river before, excepting the river of the Etchemins, and he seems to have included the bay in the description.

"L'Escarbot came there some years after, and published his narrative before Champlain's came out. He does not mention any river by the name of St. Croix, but describes the islands in such a manner as shows them to be as above marked, and says the islands were called St. Croix.

"The commissioners at Paris, in 1750, Shirley and others, said that the name was communicated from the islands to the river. There was no question before the commissioners connected with this fact, and they had no means of information more than we now have. The acts of state do not relate to the question of which is the river. The country being ceded to the French crown in 1632, a great many grants were made; one to Bazilly, in 1635, which calls the island mentioned in it (not the island where De Mont wintered) the island in the entrance of the bay and river St. Croix. There was a grant to Sir William Alexander, by King James, in 1621,* of the province of Nova Scotia, the western boundary whereof was from the Cape of St. Mary, across the Bay of Fundy, to a river commonly called St. Croix, *et ad scaturiginem remotissimam sive fontem ex occidentali parte ejusdem qui se primum immiscet*. Taking the Schoodiac as the St. Croix, the English agent claims the pond near the Penobscot as the most remote spring on the west, or the most remote western spring, which comes into it. Our translations differ. We say it is not the

* Hazard, vol. 1.

most western spring, but the most remote spring from the sea which comes in from the west side of the river; that the treaty of peace does not regard the west or east spring, but goes on the river St. Croix to its source, pre-eminently so called. Therefore, if the Schoodiac is the St. Croix, the north branch, or Cheputnaticook, offers the source intended. There are no acts of the English government, excepting a commission to the governor of Halifax, in 1763, bounding the province by the river St. Croix, to its source, and then to Canada line, and an act of Parliament, in 1775, for restraining the trade of the New England colonies. This act is not of any consequence.

"The map of Mitchell, as proved by Adams, Jay and Franklin, was produced by the English commissioners, and the lines marked on that. There was but one river on it marked St. Croix; the Schoodiac is on that map called Passamaquoddy river. The river St. Croix is east of it. It is clear that nearly all the maps produced agree with Mitchell.

"Mr. Adams and Jay testify that they were governed by Mitchell's map; but add (strangely) that the bounds of the charter of Massachusetts were intended, when in fact the charter of 1692 was bounded on the gulf and river St. Lawrence. All Nova Scotia was, by the charter of William and Mary, a part of Massachusetts, and separated from it after the treaty of Ryswick, in 1700, or about that time.* The letters and papers were mentioned and produced. There have great difficulties resulted from that expression in these testimonies.

"All the Indians swear that it has been always reported that De Mont wintered in the Schoodiac, but that he erected a cross on the Magaguadavie, and that river alone has always been called the St. Croix. The white people, who went there first, say the Indians told them so then. This case ought to have been settled by negotiations, under a

* See 2d Hutchinson.

supplemental article to the treaty of amity. I gave that opinion very early to the secretary of state.

"The commissioners have adjourned to the fifteenth of next month, to receive a plan they have directed to be formed from the surveys, on which they will finally mark the river St. Croix and its source. The arguments are closed.

"I am rather writing from habit than recollection, for I am quite asleep; but remain your humble servant, with friendship and respect."

The final report, made October twenty-fifth, 1798, declared that the mouth of the river St. Croix is in Passamaquoddy Bay, at a projection of land, Ide's point, about one mile northward from the northern part of St. Andrew's island, and in the latitude $45^{\circ} 5' 5''$ north, and in the longitude of $67^{\circ} 12' 30''$ west from London, and $3^{\circ} 54' 15''$ east from Harvard College; and that the course of the said river up from its mouth is northerly to a point of land called the Devil's Head; then turning by the point runs westerly to where it divides into two streams, the one coming from the westward, and the other coming from the northward, having the Indian name of Cheputnaticook; and thence up the same to its source, which is at a stake near a yellow birch tree, hooped with iron, and marked S $\times$ T, and J $\times$ H, 1797, the initials of the surveyors' names. Here was erected the monument.

Sullivan writes Mr. Pickering on the twenty-ninth of September, 1798: "Before I left Providence, I had the honor to write you on the state of our controversy in regard to the eastern boundary. The commissioners will meet on the fifteenth of October, and will then probably form their ultimate declaration; and there is very little probability of their being united. Judge Howell will never sign a result to allow the English claim. The decision rests with Judge Benson; and I am apprehensive that he will give them all they ask, and carry them to the river

Penobscot. This I conclude from his uniform conduct from the opening until the close of the arguments. He seems to be impressed with an idea that it is of no consequence to the United States how this line is settled. I wonder at his embracing this opinion, because there is on the table a file of papers, frequently referred to, consisting of the zealous proceedings of Massachusetts, from the treaty of peace to the treaty of amity, in order to remove the English people from St. Andrews. Judge Howell and myself are clearly of opinion that the Magaguadavie is the river truly intended; and that, on a fair construction of all the evidence, that river ought now to be fixed as the boundary. But, as the English government has granted the lands as far west as the north branch of the Schoodiac, as there are difficulties of a public nature in the country, and our situation in regard to the English is critical, I should not be uneasy at a *unanimous* result that the Schoodiac is the St. Croix intended, and that the lake from which the north branch issues is the source. The quantity of land between the Magaguadavie and the Schoodiac north branch is about two millions of acres, and has been granted by the English government. The lakes from which the Magaguadavie and Cheputnaticook issue respectively are but nine miles apart. The strip of land between lines drawn due north from these sources to the highlands is not considerable; but the territory between a north line from the Schoodiac Lake, near Penobscot River, is very great; and three millions of acres have been granted by Massachusetts. Judge Benson says that he has been told, in Boston, that the place of the line is of no moment. He did not say who told him so; but he appears to be too deeply impressed with that idea. Judge Howell had a long conversation with him, after the arguments were over, and expressed his opinion very fully to him. Howell would not have let me know his opinion before the final result, had not circumstances taken place which rendered it expe-

dient. He understands the controversy perfectly ; and will not agree to sign a result merely because a majority of the commissioners shall agree to do it, nor to let the matter pass in silence, without communicating his reasons for dissenting, if he does not unite with the others. He is very firm ; and I can assure you that, from all appearances, we have nothing but that firmness to rely on, when we hope that the other two will not, without him, sign a result allowing the whole of the English claim. Though this is a private and confidential letter to a secretary of state, yet I suppose that he will of course communicate it to the president."

On the third of the following January Judge Howell wrote thus to the secretary of state :

"Before the arguments were closed I had fixed on the north branch of the Schoodiac as the St. Croix ; both the other commissioners, I soon found, were as much fixed on the western branch. Many days were occupied by us in consideration and discussion of the subject.

"At length I was mortified to find myself alone, and that the other two had prepared a final declaration in favor of the western branch, which they showed to me, and said they were ready to sign. To this I gave a decided negative. I committed to writing my reasons of dissent, and put the argument into their hands for deliberate perusal. After perusal, they returned it to me. I told them it was my request that it should be lodged on file with our secretary, and make part of our proceedings. This they utterly refused. I then told them that I should think it my duty to transmit it to the secretary of state, to be lodged in his office with the papers in this case. To this they could have no objection. Some altercation, rather unpleasant, took place between my friend Benson and myself in private. Col. Barclay seemed to keep himself on the reserve, and to push our friend Benson forward. I had labored from the first of our discussions to prove that the source of either branch must lie where it lodges itself in waters

of a different denomination. In this opinion we all seemed at length to agree; they for the issuing of the waters of the western branch out of the Lake Genegenasarumsis (if I spell it rightly), and I for the issuing of the waters of the north branch out of the *first lake*. While things were in this posture, something like a negotiation, started by Judge Sullivan, and, I believe, assented to by Mr. Liston, who was then in Providence, on his way westward, carried them to the north branch, and induced me to agree with them in our final result; to induce me to which, Judge Sullivan read to me your letters to him, in which you contended that the source of a river must be at the most remote waters which flow in it.

"It must be allowed that there is room for debate and for a diversity of opinion on this question, whether the source of the north branch is at the *first lake*, or where we have fixed it; and this, being matter of judgment, was a subject of accommodation. I considered it as a fortunate circumstance that all the claims of individuals are quieted; and the satisfaction expressed by both agents gave reason to hope that the parties more immediately interested would readily acquiesce in our result."

The region north of the Schoodiac waters was still a wilderness; and embarrassments in the way of exploration discouraged at that time any effort to ascertain the highlands described in the treaty of peace as the northerly bound of Maine. But it was regretted that no provision had been made by Mr. Jay for settling the controversy as to the islands in Passamaquoddy. Claimed and occupied by both Americans and English, they continued for many years longer a subject of contention. The fourth article in the treaty of Ghent, December twenty-fourth, 1814, provided that two commissioners should be appointed to determine the respective claims of the two nations, and, in case of their disagreement, the question was to be submitted to some friendly power. Thomas Barclay and John

Holmes, selected for the duty, decided that Moose, Dudley and Frederick islands, in Passamaquoddy, belonged to the United States; all other islands in that bay, and the Great Menan in the Bay of Fundy, to Great Britain.

The fourth article made similar provision for ascertaining the highlands; but the British commissioner insisting that our north-easterly corner should be at Mars' Hill, one hundred miles south of the point finally established, the question was referred to the king of the Netherlands for arbitration. He recommended a compromise, by which one third of seven million five hundred thousand acres in dispute should be yielded to Great Britain; the other two thirds to the states. This award was rejected, and war seemed imminent, when Lord Ashburton and Mr. Webster closed the controversy by the treaty of Washington. This gave Maine half a million acres less than the award; but compensation was made by a payment of three hundred thousand dollars from the federal treasury. The English government were thus enabled to join Quebec and Halifax by a military road through the Madawaska settlement, long with them a desirable object; and, on their part, relinquished to the states a fort at Rouse's Point, which had been erected, at the cost of a million of dollars, in the war of 1812, north of the forty-fifth parallel, there constituting our boundary.

CHAPTER XV.

PRIVATE LIFE AND RELIGIOUS SENTIMENTS.

WE have now reached the middle period of the busy life under review; the table land where the natural powers, having attained their maturity, continued for a time in fullest vigor before commencing upon their decline. The season seems appropriate to pause for a moment in the onward course of our narrative, and consider our subject in his different relations as a lawyer, as an author, and also in his various endeavors to be of use in his day and generation. What claims, on either ground, he possessed to be remembered, must remain for our readers to decide from the proofs we are able to present. It is very far from our intention to anticipate their judgment by any extravagance of praise.

Where, as in our happy land, knowledge is as universally diffused as the air we breathe, and no social inequalities discourage effort, high intellectual gifts and distinguished achievements adorn every theatre of action. The avenues of fame are crowded with eager aspirants. The generations, as they pass, cast the glow of their setting splendor over others that succeed; and the evening skies are studded with crowded orbs and brilliant constellations, all, save a few of the more fortunate, destined alike as they recede to pale their lustre and pass away into oblivion.

While all are willing enough to concede in the abstract that the only reasonable motive for human effort should be

an honest wish to meet the divine purpose in our creation, as revealed by conscience and religious faith, few men are so pure as to be at all times exclusively under its control. Other incentives form an important part of our nature, moulding character and conduct, and entitled to very different degrees of our respect. The desire to deserve the good opinion of present or future generations, for example, is far more to be commended than any longing for ease, for pleasure, or for power. To judge a man aright, the secret recesses of his heart are to be explored, and his ruling principles of action and the general tenor of his life subjected to rigid scrutiny. Should we find the inducements that usually influence him generous and elevated, and his conduct consistent, he is entitled to our favorable estimate. No biographical sketch, however unpretending, can be complete where this duty is overlooked.

Abundant materials remain in the writings, and in what is known of the public and private life of Sullivan, to render this task comparatively easy. It is the more grateful that few selfish or unamiable traits alloyed the generous and manly qualities of his nature. No character, of course, is perfect. The best has numberless defects. Man, capable of sin, and resisting, is more worthy of our esteem than an angel of light, for whom temptation is impossible. Sullivan was thoroughly human. All that was pleasant commended itself to his keen relish for enjoyment. His heart glowed with affectionate sympathies for his fellow-creatures. He wished to contribute to their welfare; he ardently desired their approbation. He, moreover, longed to leave behind him some mark by which he should be remembered in future times. Yet he was never unmindful of his relations to the unseen world; he carefully heeded the dictates of his conscience; the influences of religion were ever present to his mind; and from early manhood to his grave duty to God was his paramount consideration.

All the traditions that have come down to us, and the

constant recurrence of scriptural allusions in his works and arguments, confirm this view. Of an ardent and enthusiastic temperament, and at the same time possessing an unusual solicitude as to the future, which has been observed to be characteristic of his lineage, Sullivan was well constituted by nature to take a profound interest in the mysteries of revelation. The heavy responsibilities to which he was early subjected made him thoughtful. He realized the value of divine guidance and support, and assiduously applied himself to seek in the Scriptures that knowledge he recognized as of all the most important. Various circumstances in his early life were propitious to his progress. Connected by marriage with a family remarkably strict in their observance of religious duties, his intimacy with Morrill, his pastor, at Biddeford, strengthened the influences of conjugal affection; and his association with the patriots, Adams and Hawley, somewhat later, added the force of their example to the devotional habits he thus formed.

After a conscientious investigation of the tenets of Christianity, and patient study of its solemn truths, he joined the church at Biddeford. After this open acknowledgment of his faith, a profound sense of religious obligation, and habits of public and private devotion, were distinguishing features of his life. This was without bigotry or sanctimonious pretension. He realized the deep significance of our mortal existence, its connection with the infinite and eternal, and the importance of regulating the heart and conduct in accordance with divine law, so as to secure, if not immunity from sin, at least its pardon. He took a lively interest in the religious controversies of the period, and thoroughly understood the various views of the Christian revelation. Still, the points in which all sects coincided he conceived to be more essential than those on which they disagreed, and he deemed it of less moment that opinions should crystallize into creeds, than

that they should enlighten the conscience and purify the character.

Before the Revolution most of the five hundred churches of Massachusetts were Congregational. Parochial affairs and the selection of their ministers were left to the control of the members of each parish, but the general organization was in accordance with the Cambridge platform of 1648. Originally the Congregational churches had adopted the Westminster Catechism, and were strictly Calvinistic. They believed in the trinity, in predestination, particular redemption or election, total depravity, effectual grace, and final perseverance. Before admission to the church candidates were examined as to their faith, and a public relation of their particular experiences was demanded. In process of time both tenets and discipline were variously modified in several of the churches, while others, abandoning the platform, organized into distinct sects, professing views widely at variance with the original doctrines. The church at Biddeford held fast to the ancient creed; and, church-membership implying acquiescence in the doctrine of the trinity and the five essential points of Calvinism, such would seem to have been the religious convictions of our subject when he entered into its communion.

If the colonial epoch of American history is to be regarded as a state of pupillage, gradually maturing the people for the exercise of their political rights, the public mind was, during the same period, likewise learning to value and enjoy the rights of conscience and religious toleration. The Revolution emancipated New England from religious thralldom as well as from civil bondage. The house of Brunswick and the British Parliament had not been its only tyrants. The Cambridge platform ruled with despotic sway over the land; and whoever ventured to think for himself, and question the established tenets of his church, was placed under its ban. Its pains and penalties were not the less intolerable that they assumed simply

the form of opinion, and, excluding the offender from communion with his church, discredited him with his friends and neighbors.

The puritan ministers were generally men of education and good sense, and, if austere and exacting as regarded others, were themselves blameless in life and conversation. Zealous for the spiritual salvation of their flocks, like good shepherds they sympathized with their sorrows, and were interested in their worldly prosperity. But that the arbitrary power they shared with the leading elders could not be safely lodged even with the wisest and best, the banishment of Roger Williams and Ann Hutchinson, the hanging of the Quakers and witches, are melancholy proofs. The spirit of intolerance had somewhat abated, however, at the close of the century stained by these persecutions, when seceders from other congregations erected on Brattle Square, in Boston, what, from the circular distributed upon its completion, was called the Manifesto Church. Retaining the Westminster Catechism, they innovated upon the established discipline by introducing into public worship the reading of the Scriptures, and permitting the baptism of children whose parents were not themselves in full communion, but who promised to educate their children in the church tenets. They dispensed with the relation of experiences as a pre-requisite to church-membership, and allowed all the parishioners, whether communicants or not, to vote and act in the secular affairs of the parish. Notwithstanding this wide departure from the platform provoked much angry contention, manifested in pamphlets, newspaper comment and parochial letters, the congregation in Brattle-street still remained in fellowship with the other churches; the different pastors continued their exchanges, and took part in ordinations, councils and other friendly offices, as before.

Dr. Samuel Cooper, whose father had been long associated with Dr. Colman, its first pastor, had been for nearly

forty years settled over the Brattle-street parish when Sullivan took up his residence in Boston. An ardent patriot, and one of the stanchest sons of liberty, Cooper had been long on terms of great intimacy and friendship with Sullivan, and he was perhaps in some measure influenced by this circumstance in his selection of his place of worship. His friend, Governor Hancock, was also a member of the parish, and indeed many others of his acquaintances and friends. He purchased the pew nearest the pulpit on the left of the centre aisle, and was here a constant attendant and communicant for the remainder of his days. He had not been long established in the capital, however, when he was called upon to pay a tribute to the memory of his pastor, in an obituary, which will be found in another part of these volumes, as also by a resolve he prepared for the General Court, expressive of their respect and regret for Cooper, as their chaplain.

The Rev. Peter Thacher, of Malden, whose Observations upon the State of the New England Clergy will be hereafter mentioned, in connection with Sullivan's reply, was selected as his successor, and for nearly twenty years, till his decease in 1802, continued in the exercise of his sacred functions as minister of the parish. It is a somewhat curious fact, connected with his settlement, that three hundred pounds were paid by the church in Brattle-street to the people of Malden, to enable them to procure another preacher in his place. This was probably a restoration of settlement money, as it was then usual to term the amount raised for the outfit of a newly-settled minister. The controversy above alluded to did not disturb the friendly relations of the pastor and his parishioner. On the contrary, they were always particularly friendly and confidential, and their mutual regard for Hancock strengthened the ties that united them. It is creditable to both minister and people that the political rancor of the period crossed not the threshold of the church. The rival competitors for the honors of the state,

Bowdoin and Hancock, Sullivan and Strong, communed together at its altar; and Laco and Junius, bitter antagonists in print, worked together in harmony in promoting the secular prosperity of the parish, and in carrying out the principles of Christian love by joint contributions to its many charities.

From his earliest association with the parish, Sullivan's name constantly recurs on its records. Upon the death of Dr. Cooper, he was on a committee, with Judges Wendell and Lowell, Dea. Storer, Nathan Appleton and Arnold Welles, to select a volume of his sermons for publication. A day of humiliation and prayer was appointed for guidance in choosing a new pastor; and, with Stephen Higginson, Dea. Newell, Peter Boyer and Nathan Balch, he was empowered to write Mr. Thacher, and make suitable arrangements with the North Parish of Malden, over which he was settled, to secure their assent to his removal. In July, 1785, Judge Sullivan was chosen one of the standing committee having charge of all the secular affairs of the parish; was annually elected during his life, and for many years before his death was its chairman. When first added to the committee his associates were Governors Bowdoin and Hancock, Deacons Newell and Storer, Isaac Smith, Judges Wendell and Lowell, Edward Payne and David Bell. Other gentlemen of the first respectability, in subsequent years, were called upon to fill vacancies created by death or resignation; and when, in 1808, his own term of service ended with his life, the other members of the standing committee were Dea. Grant, Eben Hancock, Arnold Welles, Peter Thacher, William Spooner, H. G. Otis, Samuel Hammond, Judge Parker, Samuel Dexter, Samuel Snelling and Dea. Andrews. It was long customary to have their monthly meetings alternately at the houses of the different members; and, at the close of the record of these occasions, we find it generally stated that

the evening had been passed in great harmony and cheerfulness.

When Thacher died, in 1802, Sullivan wrote his obituary, and was chairman of the committee of the parish to supply his place. It was principally through his influence that Joseph S. Buckminster was selected. The father of Buckminster, a rigid Calvinist, of superior gifts and attainments, of generous and manly character, and eminently devout, had long been settled at Portsmouth. Mrs. Buckminster, his first wife, the mother of Joseph, was the only child of Dr. Stevens, the estimable minister at Kittery, with whom Sullivan was no doubt very well acquainted, Kittery being near Berwick, and on the route into Maine. The Buckminsters were, moreover, intimate at Portsmouth with the family of Governor Langdon, the brother of Mrs. Sullivan; and young Buckminster being a student at Harvard, Judge Sullivan had had abundant opportunity to watch the development of a mind and disposition peculiarly fitted for the sacred office. It was, perhaps, a hazardous experiment to place one so young and inexperienced,—for he was when settled only twenty years of age,—as teacher of morals and divinity over a parish comprising among its members many of the most intellectual men of the day. But the distinguished success and usefulness, in the discharge of his pastoral duties, of this talented, pious, and pure-minded youth, and the universal respect and affection felt for him by all who shared his gentle ministrations, fully justified the choice. Investigating at Cambridge and Andover the leading questions of polemical divinity with anxious diligence, his amiable spirit rejected the stricter dogmas of Calvinism. He doubtless regretted that his conclusions should be at variance with those of his father, whom he greatly venerated, but was still too conscientious to compromise with his convictions, and accepted the doctrines of Christianity as presented to his reason. His opinions were formed gradually, and after

much deliberation, and, it is believed, finally corresponded with those of his friends Channing and Lowell, and were the same now entertained by the great body of Unitarians in this country.

To define what these were is the more difficult, that, in dissenting from others, the Unitarians, or liberal Christians, encouraging an unrestrained freedom of inquiry, adopted no confession of their own. Their conclusions were, consequently, somewhat negative; but among them, with some modifications, were a belief in the miracles, in the inspiration and divine authority of the Scriptures, in the divinity but not the deity of the Saviour, in his preëxistence as separate from and not coëternal with the Father, and in his personal presence to the disciple and the church through the Spirit. They believed in the death upon the cross, not as a vicarious atonement for imputed sin, but as a pledge and seal of the divine mercy fulfilling all sacrificial purposes; and as the crowning act of disinterestedness and perfect example of submission to God, even unto death, working in the believer, through faith, penitence, holiness and eventual redemption. It was a part of their system to promote the religious training by the culture of the taste, reason and all the nobler qualities of our nature. In their view man was not by inheritance totally depraved, but liable to sin, and needing regeneration from above; not containing in himself perfectibility, or ever in this life actually perfect, but capable, through the aid of the Holy Spirit, of an endless progress towards perfection. They considered obedience to the divine precepts the best test of correct opinions, holding the Christian responsible for all deviations.

Such are believed to have been some of the prominent opinions of Buckminster when settled in Brattle-street; and such, it is reasonable to believe, were likewise the opinions of Sullivan. By what successive steps the church or the individual arrived at these conclusions, cannot be

ascertained. The process was doubtless very slow and gradual. These views did not originate in America. Emlyn, Price, Priestley and others in England, long before, had given them to the world. Among the earliest in Boston, Mayhew, of the West Church, questioned the trinity; Chauncy and Murray gave up the doctrine of total depravity, and believed in universal salvation. Dr. Freeman, in 1786, with Counsellor Gardiner, the law reformer, as his associate, and ordained by a form suggested by Bowdoin, remodelled the English liturgy, at the Stone Chapel, to meet the new views. For the next twenty years, charges of Arianism, Socinianism, scepticism, infidelity and atheism, fill the newspapers and controversial writings. But no positive separation took place between the different sects. The Old South and Old North, the West Church and First Church, Brattle-street and King's Chapel, continued in fellowship; and Osgood, Eckley, Freeman and Thacher, preached in each other's pulpits, officiated together at ordinations and councils, communed at the same altars. It was not till long after the death of Buckminster that the schism became decided, and the Orthodox and Unitarians organized apart.

The religious sentiments of a layman are usually more interesting to himself than the public. Circumstances make this case, in some measure, exceptional. For many years Sullivan occupied a prominent position as presiding officer of several of the principal religious associations, at a period when opinions were undergoing, in the minds of many, an essential change. He took an active part in the discussion of the great questions agitating the religious world, not merely by the fireside, but in the public prints and in separate publications; and, before he died, the opinions he professed when he joined the church at Biddeford had become essentially modified. It has been frequent subject of remark that, in the progress of liberal Christianity, laymen led the way; and few men were so situated as

to possess a greater influence in advancing the cause than Sullivan. If, at the time when our religious institutions were forming after the Revolution, he aided to direct public opinion into safe channels, to secure religious liberty without increasing infidelity, and to promote Christian charity and toleration among the sects without producing indifference, that influence was happily exerted.

Nor, as regarded his own conduct, were his views simply speculative. All who knew him speak with respect of his purity of character and his conscientious obedience to divine law in his daily life. Were this testimony wanting, abundant other proof could be found in his letters, arguments and publications, all showing the constant ascendancy of religious sentiments over his mind. That they regulated his conduct, is made sufficiently manifest by the fact that, when candidate for governor for five successive years of the most embittered political struggle ever known in the state, no pains were spared, in the closest scrutiny of his life for forty years for charges to his discredit, to defeat his election. Of the few collected with any color of plausibility, not one, of the slightest significance, but was proved to be wholly unfounded.

As a public man, by his good temper and freedom from vindictive spirit under unmerited contumely and reproach; by dignified cheerfulness when others, with less claim, were preferred before him to office or honor; by his continual endeavors to benefit the public, to improve its jurisprudence, to protect the general health, to preserve tranquillity and order, to promote education and morality, to assuage the virulence of party rancor, and to keep alive the attachment of his countrymen to their free institutions, that these might be transmitted inviolate the blessing of future generations; he proved his patriotism to have been enlightened by the noblest inspiration, that of Christianity. As a husband, father and friend, he was amiable, considerate, self-denying, constantly seeking to contribute to the

happiness and substantial welfare of those he loved. In his business intercourse he was patient and forbearing, and not only scrupulously just, but obedient to the dictates of honor, without regard to consequences. To the afflicted and impoverished he was judicious in administering consolation; freely gave time and means without stint to alleviate distress, and, by the exertion of his influence with individuals, or with the public through the press, obtained subscriptions of money, procured employment, defended reputation, and accommodated disputes; providing, according to the circumstances of each case, the appropriate relief. After half a century, many of his acts of kindness, charity and friendly service, are found still fresh in the recollection of grateful hearts. He was ever ready, not only to argue the causes of the poor without fee or reward, but to listen patiently to the story of their wrongs, devoting to their affairs the same fidelity and zeal exhibited in those of the more affluent. His strenuous endeavors to discourage or conciliate litigation; his never having been himself a party to any legal controversy; his efforts to reconcile the quarrels and animosities of his friends and acquaintances, and his constant exertions to save the country, could it be without the sacrifice of honor or substantial interests, from the horrors of war, either with France or with England, entitle him to the promised blessing as a peacemaker.

The whole tenor of his life appears to have been consistent. It is easy of proof that his ruling principle of action was no longing for power, for place, or personal popularity, neither a wish to secure the admiration or even the esteem of his fellow-mortals. While we bear in mind how constantly and devoutly he communed through prayer with his Creator, how assiduously he strove to understand the divine precepts, and his steady self-discipline, and obedience, and submission; when we consider the many severe trials and afflictions experienced at all

periods of his career, which naturally turned his heart for solace and support to the unseen but ever-present Providence, and observe his frequent and unreserved acknowledgments of faith and dependence, upon all suitable occasions, it seems impossible to doubt that the only reasonable explanation of his character and usefulness is, that he believed his Bible, and, as closely as human frailty permitted, was a devout and humble follower of Jesus.

He took especial delight in the society of the clergy, and those from the interior were constant guests at his house. From his position, for nearly twenty years, as the chief executive officer of the Massachusetts Charitable Congregational Society, they were all well known to him. At stated times they met around his table; and, in his constant visits to every part of the state, he, in turn, often partook of their hospitalities. With Morrill, his minister at Biddeford, with Cooper and Thacher, and the saint-like Buckminster, successively his pastors in Brattle-street, and of whom the latter preached his funeral sermon, one of peculiar eloquence, he lived, as has been stated, on terms of the most intimate confidence and friendship.

Family prayers were the usage of his household, and, though never made a matter of compulsion, were faithfully attended by all under his roof. When he was at home, the services were conducted by himself, and consisted of a chapter of the Bible, judiciously selected, and a prayer, fervent and adapted to meet the daily necessities and varying circumstances of life. It is remembered that, in prayer, he turned away from his fellow-worshippers, in whose memory the spot which he occupied when engaged in these sacred offices was particularly hallowed. His family devotions were not lip-service, or mere matters of form, but his whole attention was absorbed in this solemn exercise; his voice was earnest and devout, and his whole heart occupied with the performance of the sacred duty.

By law, as also by the long-established usages of society

in New England, the Sabbath ended with the setting of the sun. The boys wistfully watched for its disappearance, that they might again be free from the irksome restraints puritan propriety imposed upon their restlessness. The Sunday evenings were devoted to social meetings. The clergymen received their parishioners, and the houses of the principal citizens were open to their friends and acquaintances. When elections were approaching, this, also, was the time selected for caucusses and political gatherings at Faneuil Hall and Vila's. The receptions at Judge Sullivan's are often mentioned, by those who were in the habit of being present, as particularly agreeable and animated. His family were always about him. Strangers from the interior, or from distant parts of the country, the consuls and other foreigners, were frequently added to the circle, of which some of the most distinguished revolutionary celebrities occasionally formed a conspicuous part.

During the quarter of a century in which Judge Sullivan resided in Boston, the town enjoyed the reputation of being eminently social. He was himself fond of cheerful society, and delighted to gather his friends about him. In a generation particularly courteous and polite, he was somewhat noted for the refinement and elegance of his manners. But though dignified, he was never formal; and many yet remember his hearty cordiality, his readiness to enter into the tastes and feelings of others, and his willingness to forego his own comfort and employments when theirs were to be considered. Friendly and affable to all, he was particularly sympathetic to the young; and many then in boyhood, or but just starting upon life, often speak now of his pleasant smile and cheerful greeting, of his frank welcome, and the ready alacrity with which he lent himself to their entertainment. His hospitable board was constantly surrounded by men of different professions and various political opinions, who, under his genial influence, found pleasant recreation from their cares and labors in varied and bril-

liant conversation. He himself excelled in anecdote, was always cheerful, and generally gay, and possessed the happy faculty of making his guests easy and contented with themselves and their neighbors.

He was, necessarily, often from home. With the increasing prosperity of the country, the roads were improved; coaches, somewhat slow, connected the principal towns, and the country taverns began to assume a more comfortable character. The ancient usage of the judges and the bar, to travel in their own vehicles upon their circuits, long continued. Sullivan journeyed in a phaeton, sometimes driving himself, at others leaving the reins to an attendant. One who constantly attended him upon these various excursions still survives, after half a century, in full vigor of mind and body. He frequently varied the monotony of the road by taking with him one of his sons, or by selecting from his professional associates an agreeable companion. Sometimes he travelled in the saddle. He was fond of fine horses, and, notwithstanding his lameness, was a constant and excellent rider. When alone, the solitary roads afforded favorable opportunities for thought; and thus, and by early hours, for he was generally at work long before the dawn, in winter, preparing for the labors of the day, he was enabled to accomplish a vast amount of literary and professional labor.

His tasks performed, no one could have enjoyed more keenly the relaxation he had earned. He delighted in all the pleasures and occupations of domestic life, was ever mindful of his children, and constantly endeavoring, rather by quiet influences than by rebuke or severity, to form their characters on principles conducive to their virtue and happiness. One of his letters, on the subject of the discipline of childhood, proves him to have been fully alive to the importance of keeping children under control, and bringing all the experience of the parent to bear on the regulation of their habits and dispositions.

Exactiḡ implicit obedience, and inspiring his children with a wholesome fear of offending him, he was ever gentle and affectionate, sympathized with their pursuits and enjoyments, and admitted them to his confidence and companionship.

It was no part of domestic government, in that day, to spare the rod. Contributing freely to whatever could add to their reasonable enjoyment, he was careful to inculcate in his children rigid principles of honesty and justice. When one of his sons, still too young to realize very distinctly the difference between right and wrong, exchanged a knife he had borrowed of a servant for a cake an itinerant dealer had tempted him to purchase, his father, learning the circumstance upon his return from his office, investigated the facts, and then bade the child follow him to the stable. Selecting as he went a knotted stick, he first impressed upon the mind of the child a full sense of the injustice and criminality of his conduct, and, that he might not forget the admonition, administered a severe chastisement. When, at a later date, the boy had grown too old for personal correction, and was not disposed to obey the paternal mandates, he was checked by the simple reproof that if he could do without his father, his father could do without him.

With his professional brethren he was friendly and unreserved, equally disposed for jest or argument, and frequently enlivened the monotony of the circuits and the corners of the court-room with his amusing anecdotes and lively wit. Having been on the bench himself, and occupying an office which made him necessarily familiar with the bar throughout the commonwealth, his amiable qualities and pleasing address won their regard and secured him consideration wherever he went. Blessed with a happy temperament, great animation and a ready flow of spirits, his mind was always active, the exercise of his bodily powers a constant delight to him, and he directed all his energies

to whatever he undertook with remarkable zeal and earnestness. Notwithstanding one of his limbs had been badly broken by the accident of his childhood, and the knee of the other stiffened by disease, he moved about without crutch or cane, not only with speed and briskness, but with dignity and grace, and mounted his horse without assistance.

With persons of that period mingling much in society dress was made of more consequence than now. Sullivan was of course much in court and in company, and, in accordance with the prevailing fashion, dressed with great care and elegance. His hair was daily powdered, and his lace ruffles, silk stockings, polished shoes and buckles, were always scrupulously neat. The materials used for the garments of the affluent were rich and costly. For ordinary occasions, indeed, broadcloth was in use, but generally of a light color and alike throughout. For gala purposes the gentlemen wore velvet and brocade; and a cocked hat, crimson cloak and white-topped boots, in cold weather, completed the costume for the streets. But although the usages of society demanded an attention to elegance of apparel and appearance, the energetic men of that day wore their garments without pretension or consciousness. Sullivan was never too busy to dress with care, but was assisted by an instinctive delicacy of taste in meeting without much effort the social requirements of the day.

Mrs. Sullivan was admirably calculated to preside over her husband's hospitalities. She had been much in the gay world of Philadelphia with her brother, Governor Langdon, and was well versed in the questions of public interest then the frequent topics of discourse. She was above the middle height, of an attractive personal appearance; and her manners, courtly and polished, were at the same time easy and winning. She was fond, like her husband, of the pleasures of society, and was on terms of intimacy and friendship with the principal personages of the place. Mrs. Hay-

ley, the sister of John Wilkes, Mrs. Morton, celebrated for her literary taste and productions, Mrs. Swan, General and Mrs. Knox, and Lady Temple, the widow of Sullivan's ancient antagonist, and many others remembered with respect, formed part of a social circle deservedly celebrated for its character, cultivation and agreeable intercourse.

With many reasons to be contented with his lot, and a philosophic disposition to take fortune's buffets and rewards with equal thanks, life was not all sunshine. Sullivan loved fondly the objects of his attachment, and was profoundly afflicted at their loss. He was, moreover, too thoughtful not to heed the lessons of mortality flitting across his path and chastening his natural longing for earthly happiness. In January, 1795, General Sullivan, whose naturally strong constitution had been undermined by the fatigues and exposures of his military campaigns, died at Durham, at the early age of fifty-four. When Washington made his visit to New England, in the autumn after his inauguration, it had been the good fortune of General Sullivan, as president of New Hampshire, to receive his beloved general and brother in arms at Portsmouth. The president had appointed him judge of the federal court, an office which he held till his death. His health was at that time already much broken, and during the last years of his life to a degree that interfered at times with the performance of his judicial duties. When some one suggested to the president the propriety of appointing his successor, Washington, fully appreciating his generous character and distinguished services, said he would more willingly remove any other person in public office in the country.

The intercourse of the two brothers had been ever remarkably friendly, and James throughout his early manhood had been accustomed to look to John, four years his senior, for counsel and guidance. Public cares had separated them, but they kept up a constant and confidential cor-

respondence, and it is a subject of regret that but few of those letters remain. Constantly moving about the country in the discharge of their various duties, they had frequent opportunities of meeting, and the general occasionally made his appearance in Boston. He had been too much engaged in political life to accumulate property, and by his generous hospitality had expended the savings of his professional emoluments. An arrangement was made, however, by which his widow was enabled to retain the homestead at Durham, where she resided till her death in 1820.

Fifteen months after the decease of General Sullivan, his father, who had retained his strength and faculties to a remarkable degree, long after he had completed his century, died at Berwick. His many noble qualities and affectionate disposition had particularly endeared him to his children, whose education he had personally directed, and whose characters had been formed under his guidance. Both brothers had ever been thoughtful of their parents, and contributed freely to their comfort and support. John was the nearer neighbor, and saw them more constantly; but James, who had occasion to go frequently into Maine, improved every opportunity to visit their cottage, and some of the older inhabitants remember having seen him often at the village church.

An anecdote, connected with one of these visits at somewhat an earlier date, forcibly illustrates his affection and respect for his father, and his sensibility to the just claims of the parental relation. One of his own sons, when approaching manhood, in the discussion of some interesting question with his father, had manifested less deference than was due to his superior judgment and authority. There was reason for feeling offended; but more in sorrow than in anger, and rather by way of lesson than reproof, he related to the young man the following incident from his own experience. While stopping several years before at

Berwick for a few days, on one of his circuits, a similarly earnest conversation between himself and Master Sullivan had warmed into an excited argument. Sullivan expressed himself with more freedom than was becoming in a son to his parent, and they parted in mutual irritation. He rode away; but his self-reproach, increasing as he proceeded on his journey, after a distance of twenty miles had become so intolerable that he turned his horse and went back to express his regret and solicit pardon.

After the decease of the ancient patriarch, his aged widow lived on for the five years following, taken the best care of by her children, till her own death in 1801. James continued his visits, and upon one of them, shortly after having been called upon, as attorney-general, to prosecute an inhabitant of Berwick, one of her neighbors, for some criminal offence, upon taking his departure he placed in the hands of his mother his usual filial offering. She was a woman of strong attachments and active benevolence, and the families of the neighborhood were closely knit together by long intimacy and mutual services. She knew well the family, who were suffering from the disgrace of the recent conviction, and replaced in his hands, with a good deal of feeling, what appeared to her to be the price of their misery.

In May, 1799, he lost his son-in-law, Mr. Cutler; and the same year his youngest brother, Eben, died in Carolina, of consumption. When his mother died, in 1801, his sister, Mrs. Hardy, grandmother of Governor Wells, of Maine, was the only one besides himself remaining of his father's family.

In the year 1797, his second son, John, married the eldest daughter of the Hon. Thomas Russell, distinguished in revolutionary history and as a friend of Washington. Mr. Russell had recently died, the wealthiest person in New England. The intimacy between the families had commenced some ten years before in the college friendship of

James Sullivan and Thomas Graves Russell, Mr. Russell's eldest son. Both died victims of Shays' rebellion, but not before young Russell had been, as has already been mentioned, betrothed to Hetty Sullivan. The connection between the families was destined, in time, to be still further cemented by the marriage of Richard Sullivan to the younger Miss Russell. The widow of Mr. Russell married Sir Grenville Temple, and, by the subsequent marriage of his niece, Miss Winthrop, to George Sullivan, the younger son of Judge Sullivan, his blood became mingled with that of Temple, the consul-general, one of his earliest and most ruthless assailants. Others of his descendants became united or closely allied in wedlock with those of the chief of his ancient antagonists, among whom may be instanced Higginson, Gardiner, Blake and Otis, as also with those of Hamilton and Jefferson, in opposition to whose favorite measures and policy he often felt called upon to use his pen. His eldest son, William, married, in 1802, the daughter of Colonel James Swan, one of the patriots, and who, when a lad in a counting-house, took part, disguised as an Indian, in throwing the tea overboard into Boston harbor on the memorable night of the sixteenth of December, 1773.

Were these family incidents of recent date we should be inclined to omit their mention; but after three-score years there can be little impropriety in recording what may interest descendants, if not general readers.

CHAPTER XVI.

PUBLIC ENTERPRISE.

It is in no vain-glorious spirit, as one of its citizens, that we venture to repeat the observation, frequently made by enlightened foreigners, that no state of the Old World or the New has been more distinguished for its works of general utility, for literary, religious and charitable institutions, than our own commonwealth; few cities more widely known for public enterprise and private munificence than Boston, its metropolis. Associations for various purposes existed among us prior to the Revolution; but the most important of those now extensively useful have been organized under the auspices of popular sovereignty. With no intention of claiming for our subject any exclusive merit in their establishment, a brief sketch is proposed of some of those in which he took a prominent part. With the ardor and industrious zeal, said by his cotemporaries to form conspicuous elements in his character, he applied his energies to advance their objects. He devoted without reluctance his time and means, and improved with ready alacrity every opportunity that presented to coöperate with his associates in their plans of usefulness.

The most ancient scientific or literary association in the country, with one exception, that of the Philosophical Society at Philadelphia, created in 1769, is the American Academy of Arts and Sciences. To Governor Bowdoin,

its first president, is justly due the credit of its foundation, though President Adams, at a college festival somewhat earlier, appears to have suggested the idea. A member from its commencement, in 1780, Sullivan continued through life a frequent attendant upon its meetings. His name is found upon several important committees; and, among others, upon one with Judges Dana and Paine, for revising its charter; and as chairman of another, appointed to ascertain and report the progress of manufactures and the useful arts in the several counties. From his extensive influence he had it often in his power to be of service to the Academy in promoting its objects and general prosperity. The roll of members, limited to sixty-two in number, has comprised many of the most distinguished men of Massachusetts; and this society, according to American standards already venerable, for the celebrity of its associates and value of its memoirs has ever occupied a front rank among learned associations, not of this country alone, but of the scientific world.

The earliest suggestion of the Massachusetts Historical Society was in 1790. To Dr. Belknap, who was settled in Boston, in 1787, over the society in Channing-street, is generally conceded the honor of its foundation. With him coöperated Dr. Eliot of the North Church, Dr. Thacher of Brattle-street, William Tudor and James Winthrop. These five gentlemen agreed each to select an associate; and in January, 1791, William Baylies of Taunton, James Freeman of the Stone Chapel, George R. Minot, Thomas Walcutt and James Sullivan, joined them. The last was chosen their first president, and continued in office till 1806, when Christopher Gore, his successor as governor of the state, was elected in his place. He prepared the act of incorporation, dated February nineteenth, 1794, and secured its passage through the legislature. Upon the completion of the third century from the discovery of America by Columbus, October twenty-third, 1792, the

society, with Governor Hancock, Samuel Adams, and the Council, after listening to an address by Dr. Belknap, dined with him in Bowdoin Square. The society met often at his house, and at Judge Minot's, till they procured a small attic in Faneuil Hall, and afterwards a room in the factory building, then used by the Massachusetts Bank, on Hamilton-place. At the close of 1793 the apartment over the arch in Franklin-place was offered them by William Scollay, Charles Bulfinch and Charles Vaughan, representing the proprietors of the Tontine Crescent; and their offer, thankfully accepted, was thus responded to in the following note from the president:

"Your obliging letter, of the thirty-first of December last, offering to the Massachusetts Historical Society a room in the centre building of the Crescent, I have communicated to the society. That association had its origin in a sincere wish to promote the honor and happiness of United America; and the labor of its members has been, and now is, employed, with unremitting zeal and industry, in collecting and preserving those materials which will give a foundation to a political, as well as a natural, history of the country. Our fellow-citizens, recognizing the utility of our plan, have been very liberal and assiduous in yielding us assistance and support. By these means we have amassed a great number of books, printed productions, ancient manuscripts, and natural curiosities. The government of this commonwealth has directed the secretary to deliver us copies of public proceedings; and we hope that the general and other governments will afford us aid and countenance in the same manner.

"Thus situated, and with these prospects, nothing could be more congenial to our wishes, or acceptable to our interest, than the generous offer you have made. We derive no small degree of pleasure from the consideration that the donation is made by gentlemen whose feelings for the public interest and taste for architecture have orna-

mented the capital with buildings so exceedingly elegant as the Crescent.

"I am directed by the society, of which I have the honor of being president, to present to you their most cordial thanks for this mark of respect for their institution; and to assure you that a grateful sense of your generosity and goodness shall be preserved until the society shall cease to exist."

In this room they met for many years; and, it not being far from his residence on Summer-street, Sullivan had easy access to their library. He added to it many valuable works, and contributed to the funds, among other liberal donations, what he realized from his *History of Maine*. His *Land Titles*, of which he also gave the copyright to the society, had, from its subject, but a limited circulation, and only paid its expenses. He wrote many articles for their collections, — the one of greatest length being the *History of the Penobscots*, — and was unremitting in his efforts to procure papers from others interested in historical investigations. This society, the oldest of the kind in the country, is also one of the most flourishing. It has already published thirty-four volumes of its collections; and its library, extensive and well selected, has been lately enriched by the valuable collection of Mr. Dowse. Its resident members are now limited in number to eighty, and its roll of past and present associates includes nearly all in Massachusetts who have gained celebrity in historical literature, many whose renown is coëxtensive with the world of letters.

When Sullivan was in the legislature, in 1784, a memorial was presented, by several of the Congregational ministers, that provision should be made by law for the widows and orphans of the clergy, and the subject referred to a committee, of which he was chairman. Although opposed by every conviction to any connection between church and state, he zealously advocated the formation of a society

which was to assume the charge of collecting and appropriating to these reasonable claimants upon public beneficence what was needed for their relief. An act passed March twenty-fourth, 1786, incorporated the Massachusetts Congregational Charitable Society, and Joseph Willard, president of the university, was chosen its first president, and Sullivan its first vice-president; offices which they respectively held for the next eighteen years. The latter, among other donations, presented the society with a large and handsome volume, bound in Russia leather, still used for its records. A liberal share of its executive duties appears to have devolved upon him, and he made frequent appeals, through the gazettes, to public sympathy, in order to increase its resources. Its funds now exceed one hundred thousand dollars.

It was incumbent on the management, in connection with a committee from the general convention of ministers, to obtain exact information as to the condition of those entitled to its aid. Through this means, and from his annual visits to every county in the state, Sullivan became well acquainted with the whole body of Congregational clergy. When in Boston they were constant visitors at his house, and he, in turn, upon his circuits often partook of their genial hospitalities. This intercourse with men of learning and superior cultivation, most of whom were adorned with a liberal share of the virtues and graces it was their duty to inculcate, was a constant source of gratification. As a republican, his political opinions often differed from theirs, which more generally coincided with the federal creed, as more conservative. If a staunch advocate of the right of private judgment in matters of religion, they recognized in him a sincere believer in its essential doctrines. With many of the most distinguished, who were his associates in other societies, he remained through life on terms of the most cordial intimacy.

This society has been eminently prosperous. Its funds

have greatly increased from bequests and generous donations, and it has afforded comfortable stipends to a class having very high claims upon public support.

Among the institutions which enlisted his cordial sympathies and active exertions, was the Humane Society, founded in 1785. Its particular sphere of usefulness is in providing for shipwrecked mariners, along the extensive coasts of the state, boats, shelter, fuel and comfortable garments. Wherever danger lurks beneath the sea, in the form of sunken rocks or shoals; wherever sorrowful experience indicates the possible recurrence of calamity, there nestle amid the crags upon the shore hospitable homes* for the unfortunate, with all needful appliances for security and comfort. Whenever deeds of unusual daring or noble self-devotion in the cause of humanity claimed special recognition, medals, with appropriate inscriptions, gracefully bestowed, give to modest merit its highest recompense, that of generous appreciation, and, transmitted to descendants, become their proudest and most valued heir-loom.

The Society for Propagating the Gospel among the Indians had been originally formed under the provincial government, in 1762; but the charter procured for its incorporation from the General Court, through the interposition of the Archbishop of Canterbury, was negatived by the king. Soon after our separation from Great Britain efforts were made for its organization in connection with a similar society in Scotland. The application for a charter was again successful, and the society incorporated in 1787. It has supported ministers among the Narragansets, for the tribes of Marshpee, Martha's Vineyard and Stockbridge, and at one period had five missions in Maine. Sullivan, one of its earliest coadjutors, warmly sympathized with its pious labors, and from 1800 to 1806 was its president. The Massachusetts Emigrant Society, formed in

* At this day about sixty in number.

1795, for furnishing advice, information, and, where needed, pecuniary aid for foreigners who came to make their homes in America, he declined to join as a member; but is honorably mentioned, with Dr. Morse, in furthering, during the short period of its existence, for it was abandoned in 1801, its laudable objects.

One principal labor of his life, and which for fifteen years engaged his unremitting attention, was the Middlesex Canal. He had able coadjutors in Colonel Loammi Baldwin, James Winthrop, Joseph Coolidge, Dr. Dexter and Christopher Gore; but Sullivan is generally admitted to have been its projector. Were our only criterion of its utility the amount realized by its proprietors, it could not be claimed as a success; but if measured by the public benefit, which undoubtedly constituted the actuating motive of the enterprise, by the increased facilities and economy of transportation it afforded, by the quantities of timber and agricultural produce supplied to the metropolis, or by the enhanced value of property, not on its banks merely, but over extensive areas at a considerable distance on either side, due credit must be given to the sagacity which planned, to the generous appropriation of means, and unflinching perseverance, which accomplished what, for the times, was a gigantic undertaking. Compared with more modern achievements of the same nature, it may appear somewhat insignificant; but at the close of the last century, when little capital had been accumulated, and a rural population, thinly scattered over the interior, derived a scanty subsistence from an ungrateful soil, the obstacles to be surmounted were many, and the task discouraging.

Before the introduction of railroads, our seaports chiefly depended for their prosperity upon their facilities of intercourse by water with the country villages which relied upon them for a market. Vast stores of agricultural wealth were wafted down the Hudson to the great commercial emporium, which, in return, through the same channel,

furnished the rural districts with foreign products. The rapid increase of its wealth and population, consequent upon the opening of the Erie Canal, clearly demonstrated what marvels can be wrought by an extended inland navigation. To the Mississippi, which, in defiance of sectional jealousies, will keep America long united as a nation, New Orleans is indebted for a growth which has kept pace with the development of the vast regions drained by its waters. Boston found in her coasting trade, fisheries, and above all in the enterprising spirit of her merchants, the essential elements of her commercial importance, but was less favorably situated than many other of her sister cities upon the seaboard, as respected her connection with the interior.

When the patriots, whose exertions had created our new empire, found it established upon firm foundations, instead of contending among themselves for power and place, they directed their efforts to develop its resources. The year after the peace we find Washington, upon retiring to his beloved abode at Mount Vernon, employed in plans for improving the navigation of the Potomac, and General Greene at the same time occupied with similar projects for the benefit of the southern country. General Philip Schuyler, in 1790, explored, with Elkanah Watson, the course of the Mohawk, with a view to a vast plan of internal improvements, consummated thirty years afterwards by his nephew, Governor De Witt Clinton, in the Erie Canal. In 1792, General Knox procured in Massachusetts a charter for a canal, one hundred miles in length, from Boston to the Connecticut. This latter work was not destined to be accomplished; but schemes for various improvements constantly occupied his thoughts. Ten years later, in the General Court, he endeavored to awaken public attention to the importance of continuing to the upper waters of the Connecticut the line of navigation then lately opened by the Middlesex Canal to the Merrimac, and which was soon to be extended

fifty miles further to Concord, the capital of New Hampshire.

In all communities are found individuals whose thoughts, rising above the engrossing pursuits of self, are quick to discern what promises to prove of public advantage. The connection of Boston, by a line of navigable waters, with New Hampshire and Vermont, perhaps with Canada, became early for Sullivan a favorite subject of speculation. He consulted his friend, Colonel Baldwin, sheriff of Middlesex, who possessed a natural taste for engineering; and they together came to the conclusion that the plan was perfectly feasible. The Merrimac, issuing from the Winnipiseogee, the great central lake of New Hampshire, at a distance of one hundred and twenty miles from Boston, ran southerly within twenty-seven miles of that capital; when, turning abruptly to the north-east, it discharged itself, after an obstructed course of fifty miles, into the sea, at Newburyport. Between Concord, N. H., and Windsor, Vt., Lake Sunapee afforded facilities for connecting the Connecticut and Merrimac, and the latter river could be made navigable by locks at a comparatively inconsiderable expense. The descent from Lake Winnipiseogee to the Merrimac, two hundred and thirty-one feet in fifty miles, involved an outlay which, for the time, excluded it from the plan. But between Concord and Chelmsford, by canals and locks, which could be constructed without much cost, the Merrimac might be made navigable for boats. Should the undertaking succeed between Concord and Boston, a distance of eighty miles, the gradual increase of population and traffic would in time warrant its extension to the lakes of New Hampshire, with their two hundred miles of shore, to the Connecticut, and perhaps to the St. Lawrence.

The first important step in the undertaking was a canal between Boston and the southerly bend of the Merrimac, at Chelmsford. Concord River, after draining, in a course

of fifty miles, the greater part of the county of Middlesex, crossed the proposed route of the canal in Billerica, about five miles south of its northern terminus on the Merrimac, and entered that river a few miles lower down. At its point of crossing, the Concord River was one hundred and two feet above tide water at Boston, twenty-seven above the Merrimac, and, being at the actual summit of the canal level, would supply a sufficiency of water for every purpose in both directions. The natural course of the proposed work, twenty-seven and one quarter miles in length, was very free from inequalities of surface, with few ledges of rock to be blasted, and few streams to be crossed.

Among numerous other encouragements to the project were the vast and hitherto comparatively undeveloped resources of the upper country of New Hampshire. Its forests abounded in white oak, pine, and other valuable timber, which only required cheaper modes of transportation to find its way to the seaboard. The annual consumption of fuel in Boston alone amounted to ninety thousand cords of wood, a portion of which it was reasonable to presume would come down the canal; and all along the route lay abundance of the best of building-stone, easy to be wrought. When to these were added the vast quantities of pot and pearl ashes, then an important staple of New England, the products of farm, dairy and orchard, which would increase in proportion to the facilities for a market, there seemed little reason to doubt that the canal would not merely prove of great public advantage, but earn an interest upon its cost. A horse could draw along its waters twenty-five tons as easily as one upon the common road; and merchandise could be carried with less injury from jar, and better protection from the weather, in boats than in wagons.

But, with these and many other encouragements to persevere, the projectors did not overlook the important consid-

eration that the habits of a people are not easily changed. After his harvest toils were over, the farmer of Massachusetts found little employment, except in teaming, either for his cattle or himself. Instead of reposing during the inclement weather upon his settle by the fire, he passed his days early and late upon the road, in the transportation of his surplus produce to the towns and villages. When his crops were ready for a market, the season for the canal would be nearly at an end, and ice beginning to skim its waters. For the winter months he would still be left to pursue, without much fear of competition, the same course along the road which his fathers had been accustomed to travel. If, for a few weeks during the earlier autumn, the canal might tempt by more moderate charges, the excitements of traffic, the incidents of the way and pleasant meetings with acquaintances, would not be readily relinquished; and the attraction of a social circle round blazing logs in a tavern bar-room, when his cattle, after a day among the snows, had been comfortably littered for the night, would probably prove superior in his mind to any merely economical considerations.

When, after maturely weighing both the chances of success and disappointment, there seemed sufficient encouragement to proceed, Sullivan, with Colonel Baldwin, Messrs. Porter and Swan, and the Hall family of Medford, petitioned the legislature for a charter, which, after some hesitation, was granted, and received the signature of Governor Hancock on the twenty-second of June, 1793. Boston capitalists thinking favorably of the project, subscribed willingly to its stock; and Russell, Gore, Barrell, Craigie and Brooks, were among its earliest directors. Sullivan was chosen president, and so continued to his death, in 1808. Colonel Baldwin was the first vice-president, and Governor Brooks the second. The summer of 1794 was occupied with surveys, conducted by Samuel Weston, an eminent English engineer, then employed in Pennsylvania on the Potomac

canals. In his opinion the work was not only practicable, but to be accomplished at little expense, and, upon his favorable report, was immediately commenced at Billerica Mills, under the charge of Colonel Baldwin, who removed the first turf on the tenth of September, 1794. The progress was slow, and attended by many embarrassments which had not been anticipated at the outset.

The president and an intelligent board of directors gave their constant attention, and were most fortunate in the genius and sagacity of their able engineer. Labor was not easily procured, though the prices, about ten dollars a month and board, seem to have been sufficiently moderate. The purchases of land from more than one hundred proprietors, whom it was all-important to conciliate, demanded both tact and management. Many of the negotiations were made by the president, and the numerous conveyances were all in his hand-writing. An order was sent to England for a levelling instrument, one made by S. & W. Jones, of London, and this was the only instrument used for engineering purposes on the work after the first survey by Weston. If still in existence, it would be an interesting relic of a labor which, if of little account in contrast with modern efforts, was considered Herculean at the time.

Opinions varied as to what should be the route. Sullivan, after careful examination, preferred, of the two most eligible, the eastern line, which, proceeding south from Concord River, passed through the Wilmington valley by a gentle descent, without ledges, morasses, or deep cuttings, through Medford Pond, and thence along the marsh to the Mill Pond at Charlestown. Weston inclined to his view, but thought well of both. Colonel Baldwin favored the western, and, a majority of the board concurring, it was adopted. The eastern was forty years later selected for the Lowell Railroad, and some engineers have been of opinion that this would have been likewise the most judicious for the

canal; that by this route it would have cost less, been earlier completed, and much of the income sacrificed in repairs been saved to the stockholders.

All obstacles were finally surmounted. The canal, thirty feet in width, with twenty locks, seven aqueducts, and crossed by fifty bridges, was in 1802 sufficiently completed for the admission of water, and the following year was opened to public navigation from the Merrimac to the Charles. Its cost, about five hundred thousand dollars, of which one third at least was for land damages, was but little more than the estimates. Commencing at Charlestown, it passed through Medford and Woburn nine miles to Horn Pond. Running along the pond, it proceeded twelve miles, through Woburn and Wilmington, across Shawshine River, by an aqueduct of one hundred and thirty-seven feet in length, into Billerica, and on to Billerica Mills on Concord River. This was accomplished upon three levels, of six, two, and four miles respectively. From the Concord it descended twenty-seven feet in a course of six miles through Chelmsford to the Merrimac.

One who for ten years gave the canal his exclusive attention, describes the route reversed substantially as follows: Ascending from the Merrimac through three stone locks, the canal extended, with a current slightly adverse, somewhat more than five miles through two aqueducts over low ground, and entered Concord River Mill Pond by an excavated stone guard-lock, and crossed it with a floating tow-path. Through another guard-lock, excavated in the rocky shore, it left Concord River, and passed through a difficult excavation, a quarter of a mile in length, over ground low and wet, where a canal could be easily made, but was liable to lose its water. Had the eastern route been adopted, the line would have here turned east, and crossed the Shawshine lower down; but, keeping on, high embankments were requisite in the approach to the aqueduct carried over that river, one hundred and thirty-seven feet, a wooden

trunk of timber frame, which needed soon to be rebuilt. Half a mile further on, through a lock of wood, it crossed a swamp, where it was said the embankments afterwards settled some sixty feet; and, proceeding through deep cuttings and with extensive embankments, passed through another aqueduct at Woburn, and then along the road, through a deep cutting of two miles of meadows and elevated embankments, to a point opposite the middle of Horn Pond. Here descending through five locks, somewhat apart, it continued over a mile of favorable ground by a troublesome hill of sand to the head of Medford River; and thence, through two connected locks, passed by an aqueduct, one hundred and eighty feet in length, across the Abberjohnny, or Symmes River, which threaded the proposed eastern route, by Wilmington valley. Here at this point there was again a choice; but the plan adopted led through deep diggings and embankments across the Brooks estate at Medford to Medford River by a lock; thence by Charlestown level, and an aqueduct of one hundred feet on stone piers over Mystic River, and a high embankment, to Winter Hill. Turning round the north-east foot of the hill, by a long rock excavation and curved embankment, it descended, by two connected locks and one detached, to tide water in Charlestown Mill Pond, and thence by a tide lock consummated its connection with Charles River opposite Boston.

Thus much accomplished, efforts were made with great zeal, and among others by Sullivan, towards filling up the Boston Mill Pond, on the Boston side of the Charles, and opening a communication for canal-boats through this and the Mill Creek, its outlet, across the town, to the markets and wharves upon the harbor. After great exertions against strenuous opposition, agreements were made for the purpose with the town and private individuals. But this work required many years for its completion, and the proprietors of the canal finally established, at some disad-

vantage to themselves, a termination for their boats at Charlestown Bridge. Sullivan next endeavored to procure an act authorizing the construction of a towing-path across the river; and in connection with the Newburyport Turnpike, Andrew Craigie, a proprietor at Lechmere Point, and other petitioners, obtained a charter for a canal on Craigie's Bridge between Lechmere and Barton's Points. In consequence of a misunderstanding with Mr. Craigie, who wished to build the bridge too far west for the uses of the canal, this part of the project was not accomplished.

As early as 1806, the aggregate of rents and tolls, in a single year, had nearly reached the handsome sum of sixteen thousand dollars; while the expenses, including two hundred and forty-eight dollars for repairs, amounted to only sixty-four hundred. When Sullivan died, in 1808, the success already realized equalled the most sanguine expectations of its proprietors, though the income had fallen off the preceding year in consequence of the embargo. The gloomy depression and embarrassments during the non-intercourse and war, and perhaps the death of the two principal projectors, Sullivan and Baldwin, within a year of each other, for a time somewhat paralyzed the enterprise. Dr. Dexter, who succeeded as president, for the next fifteen years did everything permitted by the discouragements of the times, and the unexpected obstacles, to secure successful progress.

Could the locks and canals on the Merrimac have been constructed as early as the main work, and navigation opened to Concord, the canal would have monopolized the transportation from the whole upper country, and paid for many years remunerating dividends. John L. Sullivan, son of our subject, who, while for several years in Europe, had studied the principal canals of France and England, and accomplished himself in civil engineering, was appointed agent, and was untiring in his efforts to complete this part of the plan. He examined the bed of the river, and

planned locks and dams, to be of equal service in droughts and freshets. At one time five hundred men were employed; and, the farmers and traders of the neighborhood being secured as directors in the several companies, though rocks had to be blasted under water and removed by compound levers, this labor was economically performed. The Union Canal, so called from extending into both states, was nine miles in length, and had five locks. At Amoskeag, six locks, already commenced by Blodgett, were greatly improved. Six miles further up, at Hooksett Falls, were built a dam and one lock, with a level of about an hundred and eighty feet; and nine miles above, and three below Concord, at Bow Falls, a strong and high dam, to fill a canal, which, in half a mile, comprehended rock excavation, sea walls against freshets, and a deeply placed lower lock, with three or four others. One of the last links in this chain of improvements was a lock at Wickasee, near Chelmsford. The whole fall of the river, from Concord to the head of the canal, was one hundred and twenty-three feet; sixteen to Bow, ten between Bow and Hooksett, fifty thence to Amoskeag, and twenty-one along the Union Canal.

The Middlesex Canal Corporation took a controlling interest in the Merrimac canals. For many years its whole income, not needed for its own repairs, was appropriated to these works. The agent and other proprietors also subscribed largely for stock. Lotteries were granted by New Hampshire, and two townships of land by Massachusetts; but it was not before 1815 that the river was made navigable to Concord.*

Although the proprietors never entertained any hope of successful competition with the country teams for short dis-

* In order better to accomplish their task, the proprietors procured several additional acts from the Legislature of Massachusetts; viz., those of February twenty-eighth, 1795; March second, 1808; June nineteenth, 1808; and February twenty-sixth, 1813.

tances, there seemed reason to anticipate that for long routes the canal would be preferred. This proved to be the case; and the income, which, in 1813, was less than seventeen thousand dollars, in 1816 was over thirty-two thousand. In 1817 the Hon. Josiah Quincy, with Messrs Hall and Coolidge, appointed to state the condition and prospects of the canal, reported that the annual expenses of management were about eight thousand dollars, and the average amount of repairs would probably not exceed four thousand more, and there was good ground to expect, for the future, handsome and regular dividends. Mr. Sullivan, the agent, from whose reports upon the canal many of the preceding statements have been derived, made many judicious inventions for the application of steam, not only to river, but as the motive power of canal boats. The latter experiments, from various serious obstacles, led to no practical results; and, in 1820, he resigned his agency, and, after engaging in southern navigation, entered the service of the United States, under General Bernard, the distinguished engineer.

About the same period, Chelmsford, where the canal joins the Merrimac, under the name of Lowell, rose rapidly into importance as a flourishing factory town, and the tolls of the canal kept pace, for a time, with the progress of the mills. Richard and William Sullivan, sons of our subject, established the Boston and Concord Boating Company in 1827, from which, after paying all expenses, they realized about ninety thousand dollars in eighteen years.

Mr. Caleb Eddy, who, in 1825, succeeded Mr. James F. Baldwin as superintendent, was indefatigable in his exertions to perfect the work, and to introduce into every department of its management a judicious economy. During the twenty years before its final abandonment, in 1846, that he had the general charge, he expended two hundred and fifty thousand dollars from the earnings, in renewing what had decayed of the original structures, and was yet enabled to declare considerable dividends. When the Lowell

Railroad was permitted to be built along its side, without making compensation for the value it destroyed, the canal attempted an ineffectual rivalry for the transportation of heavy merchandise with its powerful competitor. To secure for itself the monopoly, the railroad put its freight at rates greatly prejudicial to itself and to all other roads which adopted its tariff. The stock of the canal fell to one hundred and fifty dollars a share, and, finally, the canal was discontinued in 1846.

The superintendent endeavored to have it adopted as an aqueduct for the supply of Boston and Charlestown with water, at an estimated cost of one million of dollars. Another plan, at an expense of six millions of dollars, was adopted, and now brings from Lake Cochituate a supply more adequate to the wants of the inhabitants. Its original vocation gone, and valueless for any other service, the canal property was disposed of for about one hundred and thirty thousand dollars. After the final dividend, little more than the original assessments had been returned to the stockholders.

Could it have been foreseen that railroads were within the power of human ingenuity, the proprietors would have been saved their outlay. But for this admirable contrivance the canal would have proved a most profitable investment for the stockholders, as it undoubtedly was a great public benefit to the community. During the war it supplied material to the navy-yard, and food and fuel to the capital. In peace it diffused through a wide extent of country the comforts of foreign commerce; and it was said by Daniel Webster to have added five millions to the value of the New Hampshire forests.

When it first went into operation this work was of greater magnitude than any of the kind previously constructed upon the American continent. The more expeditious modes of transportation to which it has given place may, in turn, be superseded by others not yet to be con-

jectured. The progress of science is rapidly onward, nor can we predict to what daring flights of invention future generations may attain. If, as seems the present likelihood, railroads, like the turnpikes and canals which preceded them, are not destined to realize to their proprietors the cost of their construction, they are no less an important public benefit, indispensable to present prosperity. Whatever may be their fortunes, we should cherish carefully the history of past improvements as a guide in our future advances. These details may have been tedious; but, whether considered as a failure or a triumph, the history of the canal seemed to form an appropriate part of this notice of its projector.

Yet another public work, of some importance, at the same time engaging his attention, was a project which he started for the supply of Boston with pure water. Much of the well-water of Boston, from proximity to the sea and the nature of the soil and formation, was hard and brackish; and the rain collected in cisterns was often rendered unpalatable and unsuited to domestic uses, from smoke and other impurities. The population was increasing, and the area of the peninsula, originally but about one thousand acres, was gradually encroaching on the harbor. Our foreign commerce was in a rapid state of development, and it seemed expedient to secure, in good season, from beyond the narrow limits of the town, an abundant provision of the all-important element, as well for the shipping as for the other wants of the inhabitants.

When, in the autumn of 1782, the French fleet, under the Count de Grasse, was lying in the harbor of Boston, the admiral and his principal officers were frequent visitors of Mr. Durant, a gentleman originally from France, who resided five miles from the town, in what is now called Lakeville House, on the borders of Jamaica Pond. Struck with the purity of its waters, compared with that supplied from the usual sources for the service of the fleet, the admiral

ordered his butts to be sent to the pond to be filled. One of the vessels shortly returning into France, some of the water still remaining, for reasons not known, was subjected to chemical tests, and found, upon analysis, to be unusually pure. Out of compliment to Mr. Durant, to whose hospitality the French officers had been much indebted, a certificate of the result of this examination, signed by the expert employed, was sent back to America. When it was proposed, a few years later, to construct an aqueduct for the use of the capital, the pond, for this and other considerations, commended itself as the best and most convenient source of supply.

Nearly a century before, in 1698, Joseph Belknap had obtained from the citizens of Roxbury the privilege of applying the natural overflow of the pond to the purposes of a grist-mill, for their own benefit and that of the people of Brookline. Twice, when the mill had been put to other uses, in 1739 and 1783, the selectmen of Roxbury had interfered. Whatever rights had vested in the owners of the mill had been purchased of Marshall, its recent proprietor, by Eames, Bond and Page, when, at the close of 1794, they petitioned the legislature for a charter to carry the water through an aqueduct to Boston. The inhabitants of Roxbury remonstrated, and the applicants, in January, 1795, had leave to withdraw their petition. What connection, if any, Sullivan had at this time with their plan, does not appear from the documents; but, according to tradition, he was its original projector. Procuring a vote from Boston approving the design, he set forth its advantages in a petition; and, notwithstanding the renewed opposition of Roxbury and its most influential inhabitants, which he was able to overcome, the following month he obtained leave to bring in a bill, which was passed.

Dr. Dexter, eminent as a physician, and professor of chemistry at the university, Judge Dawes, and other gentlemen of capital and public spirit, joined readily in the

enterprise, at his solicitation; and the funds requisite for the undertaking, amounting to one hundred thousand dollars, were immediately subscribed. The work was prosecuted with vigor by Bond, its engineer, and under the active superintendence of Sullivan, who, while he lived, continued its president. In the newspapers, and in the city and state archives, are many letters, petitions, and other documents prepared by him to further the work. There were many difficulties encountered in its prosecution, requiring both skill and prudence to surmount. But, not discouraged, they persevered, and before 1800 the pipes were all laid, reservoirs constructed, and the water introduced into Boston. At the outset it had many prejudices to encounter; and one objection, very seriously made by not very notable housewives, was, that the water made too much suds, the highest compliment that could possibly be paid to its freedom from foreign ingredients. Another more reasonable objection was the high temperature of the water in summer, compared with that from the wells, ice not being then generally in use, as at present. The liability of the pipes to burst, in winter, from the water freezing, and the consequent possibility of being deprived for weeks of any supply, discouraged many from introducing it into their houses.

It, notwithstanding, grew in public favor. The wooden pipes originally laid, which were supposed to impart a taste to the water, were replaced by iron, and the abundance and cheapness of ice, and the introduction of various filtering contrivances, obviated several of the remaining objections. As the population multiplied, it outgrew its other sources of supply, and the aqueduct became universally popular. Long before the Cochituate aqueduct, built by the city at a cost of six millions of dollars, superseded it, the quantity of water distributed daily amounted to one hundred and fifty thousand gallons. The annual receipts of the corporation amounted to thirty thousand dollars, the

expenses to ten thousand, leaving twenty thousand to be distributed as income ; a handsome percentage on the original cost and all subsequent outlays. The rights of the corporators were conveyed to the city of Boston for forty-four thousand dollars, and are now the property of the city of Roxbury.

The West Boston Bridge to Cambridge, one of the longest structures of the kind which, at its completion, had anywhere been accomplished, and which, in the summer of 1793, was built under Sullivan's superintendence ; a canal projected across Cape Cod, between Buzzard's and Barnstable Bays ; the Massachusetts Mutual Insurance Company ; a turnpike, two hundred miles long, to Montreal ; for all which projects he appeared as the leading petitioner for acts of incorporation, engaged much of his attention ; and, with the exception of the Cape canal, were destined to prove of eminent utility. Probably, upon more careful investigation, other enterprises of the same nature might be discovered, to the successful accomplishment of which he was instrumental. Many distinguished individuals among his cotemporaries could be mentioned, equally patriotic and active in promoting objects of general utility. To their public spirit and laudable example, both Boston and Massachusetts owe a large share of the reputation they enjoy for the variety and excellence of their numerous works of general convenience, for their public and private charities, for their religious, literary and scientific institutions.

CHAPTER XVII.

AUTHORSHIP.

FROM the argument of his earliest cause, in the ancient court-house still standing on the Kennebec, down to the close of his long and eventful career, Judge Sullivan was laboriously occupied in professional, judicial, or official employments. An active politician, and zealously devoted to every object which promised to conduce to the public prosperity, with a large family to maintain and educate, and mingling necessarily from his position freely in society, his time would seem to have been sufficiently engrossed. That, amidst all these cares and perplexities, his various duties and pleasures, he should have found leisure for elaborate composition, was hardly to be expected. Yet his published writings, many of them upon subjects requiring much research and profound reflection, and far removed from the range of his legal studies, are sufficiently numerous to be deserving of mention. Including his different series of essays upon political and professional topics, they would fill several volumes. A selection of the more interesting articles it has been our plan to present, in connection with this memoir, that the reader might judge for himself of their character and value.

The vocation of a lawyer is rather to speak than to write. In his professional efforts there is rarely much opportunity permitted for preparation, since to meet the evidence and the positions of his antagonists he must trust

to the spur of the moment. His object being to persuade, he aims not so much at logical accuracy or rhetorical display, as to present his facts and arguments in such connection as best to produce conviction. But the rules of both reasoning and rhetoric are natural laws of the human intellect, and whenever it is well regulated they instinctively control its operations. The necessities of rapid composition occasionally betrayed Sullivan into violations of these laws; but as a natural delicacy of taste was constantly tending to make him more correct, most of his later writings are free from such blemishes. The ardor of forensic discussion is favorable to originality, and to the suggestion of apt and forcible illustration; and habits of vigorous thought and expression, acquired in professional duties, following him into the field of his literary labor, the practised advocate became an able writer.

It cannot be denied that the intellectual powers, however vigorous or happily constituted, only reach their highest degree of efficiency under careful culture. But the theory of Locke, that the mind is a blank till supplied with ideas from without, leads us far from the truth. However much we may be baffled in our efforts to detect in the convolutions of the human brain the mysterious processes of thought, although metaphysical research more often begets confusion than any very well defined ideas, we are still compelled to believe that the natural organism of the mind is as varied and complete as that of the body. Its numerous faculties are quite independent of each other, and, while in their healthy condition they harmoniously combine for the great purposes of our creation as moral and intellectual beings, their several operations are proved, upon reflection, to be as distinct, and may be made as familiar, as digestion, respiration, or voluntary motion. If this view be correct, and the analogy be extended, the characteristic differences of mental power, observed among men, result from original constitutional endowment, and are

little affected by any modes of cultivation, however admirable.

We are not disposed to underestimate the benefits of education. In no branch of human progress has so much already been effected, in none so much remains to be accomplished, as in devising wise plans for the training of the intellectual faculties, for storing the memory with useful knowledge, and for rendering that knowledge readily available. We would only contend that education, should it be extended through a life-time, does not essentially alter the original qualities of the mind. The beauties of the gem with the higher polish emit a richer effulgence, but its substance remains unchanged. Within their natural limits and degrees, nevertheless, both the mental and physical powers depend for their best development upon use and constant exercise. In professional, and especially in legal pursuits, when the mind is kept in energetic action, it is steadily acquiring fresh strength, and the ambition to meet satisfactorily the exigencies of duty stimulates effort, and amply compensates for the want of discipline in youth.

Many of the revolutionary leaders were well, if not thoroughly educated. Hancock, Otis, Gerry, Paine and the Adamses, among the more prominent in Massachusetts, were graduates of the university, and had not neglected their opportunities. The exigencies of the stamp-act excitement, and subsequent disputes, prevented their minds from growing rusty ; and their perilous position and heavy responsibility, when engaged in rebellion, served to keep their faculties in fullest vigor. In early life Sullivan, less fortunate, had enjoyed fewer facilities for literary training. What principles for the acquisition of learning, or its useful application, had been implanted in his youthful mind by his father, are not now to be ascertained. The parental instructions, as far as they went, were doubtless both zealous and judicious. But, soon after reaching manhood, he entered upon the best school for the development of his

natural powers in the varied business of public life, and at a period when his country required, for the sacred cause for which she was contending, all the talents and all the energies of her children.

His enthusiastic devotion to the cause, his eloquence in debate, his manliness of character and sterling good sense, marked him early as one well suited for the crisis. Brought into intimate association with the leaders of the revolutionary movement, he shared in their counsels and co-operated in their labors; and, when he was found to possess good talents as a writer, his pen was put in constant requisition. He participated in the preparation of the many earnest appeals to his countrymen, and to the friends of freedom in Europe, which will ever remain the noblest and most enduring monuments of the American Revolution. The just and honorable sentiments, the manly sincerity and honesty of purpose, that breathe through their glowing words and eloquent periods, gave dignity to the struggle for national independence, secured for it the sympathy of all generous minds, and, by inspiring a spirit of self-sacrifice among the people, and confidence in eventual success, insured for it a happy consummation.

When the Boston port bill went into operation, on the 1st of June, 1774, Sullivan was one of the secret conclave selected, with Hancock, Adams and Warren, from the General Court, to prepare letters urging upon the other colonies to send delegates to the first general Congress in September. During the three following years, and again in 1779, in his performance of legislative duties in the Provincial Congress and Assembly, he was, it is believed, more frequently called upon than any other member, unless the exception be Major Hawley, to frame acts and resolves, draw reports of committees, letters of instruction and proclamations to the people. Among his earlier tasks, we find a letter of thanks to the other colonies for their liberal donations for the relief of Boston,

then greatly distressed by the measures of Parliament, which had stopped her trade and greatly embarrassed her industrial pursuits. For her further relief he prepared a circular to the other towns of the province, soliciting additional contributions. In December he was appointed, with Winthrop, to draft an address to the clergy, urging them to exhort their people to comply with the recommendations of the Continental Congress not to import or consume British goods. He was, in February, 1775, a prominent member of a committee to publish in a pamphlet the doings of the first Provincial Congress, with an address to the inhabitants. Reports upon the militia, upon the state of the province, and of its manufacturing industry, an answer to an address of the Baptists, and documents upon numerous other important subjects, were tasks imposed upon him wholly or in part.

After the battle of Lexington, the first important conflict of the war, it was deemed advisable to lay before the public, not only here but in England, a true statement of what had occurred, and Sullivan was ordered by the Congress, with others, to take depositions *in perpetuum* of the affair; and from the evidence thus collected to prepare a statement, which was, with the depositions, despatched by Captain Derby to Europe, to justify armed resistance to colonial authority. He drew up, in May, the commission for General Ward, the commander-in-chief of the army, and in June redrafted that of the committee of safety, then exercising the executive power. With others he was selected to procure the sanction of the general Congress for Massachusetts to take upon herself the reins of civil government, and to draw up an address to the eastern tribes of Indians, to secure their good will in the impending contest. Among other duties devolving upon him, during the nine months' existence of the Provincial Congress, was another address to the people, to persuade them to take the colonial bills of credit at par, the drafting the com-

missions for the various officers of the army, and instructions for the commissioners to Ticonderoga; and, as one of those commissioners, a part of the correspondence with New York, Connecticut, the Congress at Watertown, as also with that sitting for the continent at Philadelphia, devolved upon him. As a member of the Assembly which convened in July, 1775, he was appointed to report upon the state of the province, upon the militia, upon the course to be adopted towards refugees and tories, and upon the sea-coast establishment. With Hawley he drew the bill for making the necessary changes in the prosecution of civil actions, and with Gerry that organizing courts of admiralty, and for fitting out armed vessels. He was first named in the house to prepare the proclamation to be read by the judges on opening the courts; but this eloquent production was drawn up by John Adams. The address of the General Court, congratulating Washington upon the evacuation of Boston by General Howe and his army, there is good reason to believe to be Sullivan's composition; and, upon the discovery of the remains of General Warren, at Bunker Hill, he prepared the brief but expressive resolutions, arranging for his funeral obsequies, and also for the erection of a monument to his memory, but now only recently accomplished. Many of the above writings would hardly seem to fall within the class of literary productions, were it not that we were entering upon the responsibilities of a civil war, of which the issue was not to be foreseen, and it was deemed all-important to justify each successive step to public opinion by assigning the reasons which induced it. The rebellion of the English colonies in America had already attracted the attention of the world; and whether it ended in calamity, or were to be crowned with success, these documents were to convince the judgment of Europe and posterity that the motives of the patriots could be reconciled with the dictates of good sense and conscience. They were consequently prepared with care,

as far as the limited time and pressure of more active duties permitted, and will be ever the best evidence that the American Revolution is the event of all others in history the most creditable to mankind.

Before the adoption of the state constitution, in 1780, his office of judge, to which he had been appointed in March, 1776, was not incompatible with his continuing a member of the Assembly. Although necessarily less frequent in attendance, many proofs are to be found of his active participation in legislative duties. In July he prepared the rules and orders for the government of the Provincial Assembly; and, in September, was appointed to prepare the response of Massachusetts to the Declaration of Independence. Various occasional addresses; among them was one to the inhabitants upon the state of the treasury; another to the officers and soldiers of the Massachusetts line, in the continental army, to reconcile them to the privations and hardships of the service, and to encourage them to persevere in the contest; and another to be read by the clergymen from their pulpits, and by the captains of companies to their men, to promote the enlistment of fifteen additional battalions, the portion assigned to Massachusetts of eighty-eight ordered by Congress.

In the following year he was not a member of the Assembly; but in 1778-9, being again returned from Biddeford, he took a prominent part in the business of legislation. He framed a large proportion of all the laws and resolves that were acted upon, drafted many reports upon various subjects, prepared letters of instruction to the delegates in Congress, and made himself generally useful; but no paper, of any length or general interest, has been found in the archives, which claims notice here.

In the convention for framing the state constitution he was busily engaged, and the first named upon the committee to draft the address to the people. In its preparation he was assisted by Samuel Adams, and one familiar with

their respective styles of composition will be at little loss to decide the passages which each contributed.

Many of these productions have been already mentioned in the course of our narrative, and some of them inserted at length. It seemed worth while again to refer to them, to present a more complete view of what remains of Sullivan's literary labors. The precise portion of these interesting papers we can safely claim as his composition, is, in many instances, to some degree, matter of conjecture. We should be sorry to assume anything to be his upon inadequate evidence, and have been reasonably careful to express a doubt, where any exists. Much in his hand-writing was possibly the work of those joined with him in committee; and, perhaps, a larger portion, from his being so frequently the first named for the allotted task, copied, after correction by others, from his manuscript. He wrote rapidly, and his hand-writing, graceful and vigorous, was, upon all important occasions, sufficiently clear and distinct. Yet, when his original draft was defaced by amendments and corrections, the fair copy would naturally be often prepared by some other member of the committee. Writing, besides, with great warmth and earnestness of feeling, from a full mind and teeming imagination, his style, in his earlier efforts, was occasionally somewhat overcrowded and figurative, and needed to be pruned and toned down, by the judgment of his more sedate associates. Where we still have the means of comparing the corrected copy with the original, these alterations do not appear improvements. What was gained in greater exactness and elegance, frequently impaired the strength of expression, all of which was needed for its intended purpose of animating the people to noble sentiment and heroic deeds.

The many memorials, statements, articles in the public prints, and correspondence on the question whether Mr. Temple should be considered a representative of the British cabinet or an American patriot, are, on both sides,

spirited and of much literary merit, and they occupy considerable space in the state archives. They are of too great length, and, perhaps, of too little general interest at this day, to be inserted in these volumes; but, for a full understanding of the period, they are deserving of perusal.

His earliest known separate publication was a pamphlet, printed in Boston in 1784, treating of the existing condition of the ministers of the Congregational churches, and is interesting for the view it presents of the effect of free institutions upon the pastoral relation. The preceding year, Mr. Thacher, then settled at Malden, but who was soon after called to succeed Dr. Cooper in Brattle-street, had published his able *Observations upon the State of the Clergy in New England, with Strictures on the power of dismissing them, usurped by some churches*. He eloquently urged their claims to public acknowledgment, for the efficient services they had rendered in the revolutionary movement; forcibly portrayed their actual poverty, privations and self-denial, and imputed the backwardness of the parishes, in providing for them an adequate support, to the decline of religious feeling in the country. The uncertain tenure by which they held their offices was a special cause of complaint; and he considered it unjust that ministers, after devoting the best part of their lives to the faithful discharge of their duties, should, when old, be liable to be dismissed at the discretion or caprice of their flocks. In self-preservation he recommended to the clergy that synods should be instituted, and a church establishment organized.

In reply to the *Observations*, Sullivan, while fully acknowledging the patriotic exertions of the clergy during the Revolution, denied that their parishioners had been unmindful of their just claims to consideration. He proved, on the contrary, that the people, in their own extreme distress, had contributed freely for the support of the churches, to the utmost limit of their means. He professed to be as

familiar with the condition of the various parishes throughout New England as any one; and he well knew that repeatedly grants had been made to meet the losses which the ministers, in common with others, had sustained from the depreciated currency. In one solitary instance, and that before the Revolution, a clergyman had been dismissed, upon the charge of immorality; and, in some more recent cases, a few others had been obliged to leave their parishes for political opinion. The influence of a minister over his flock was naturally great, and, whenever exerted in opposition to the cause of liberty, the public safety demanded his removal. The ancient system of ecclesiastical law had been founded in a mistaken view of human rights, and had been gradually yielding to the increasing ascendancy of the enlightened principles of religious freedom and toleration. The clergy, he insisted, were entitled to no greater security in the enjoyment of their rights than other classes of the community; and the law had already reasonably provided for their protection. He deprecated any system of synods or establishments, making the minister independent of his people, as tending to bring back the old ecclesiastical domination. Through his whole life Sullivan was a sincere believer in Christianity, a follower of its precepts. No layman was more generally popular with the clergy, and this notwithstanding the frank expression of his opinions, often in direct opposition to their own. The author of the *Observations*, Dr. Thacher, who, a year or two after, became his own pastor, was his most intimate friend. The sentiments he expressed upon the subject under discussion, grew out of his sense of the importance of saving the country, at a time when our institutions were being reorganized upon the principles of civil and religious freedom, from returning to the ancient thralldom which had been of old, in the puritan churches, as rigid and severe as any ever existing in the Catholic.

In 1791, appeared his *Observations upon the United*

States Government, which has been already fully considered in connection with the adoption of the federal constitution. It is believed to be of value as an exposition of the views of one who had carefully studied our new federal system, and this when the public attention was very generally directed to its consideration. As the welfare of this great country, and, probably, the existence of its liberties, depend upon the right understanding of the constitution, his luminous explanation of its practical working, and decided tribute to its merits, in this little work, may not be without value. Its chief claim to attention, however, is its able exposition of the importance of preserving inviolate the sovereignty of the several states.

It will be remembered that Sullivan was chairman of the committee of the legislature to which was submitted the charter of the Massachusetts Bank, the earliest banking institution in the state. This institution was, for several years, a monopoly, the second bank being created in 1791. The stockholders made large profits; and as they were composed, in a great measure, of the wealthier classes, who were generally federalists, the banks became unpopular with the republicans. The Bank of the United States, planned by Alexander Hamilton, was chartered in 1791, in opposition to the opinions of two members of the cabinet. For the restoration of public credit, and to facilitate the financial operations of the government, the measure was undoubtedly politic. Tempting privileges were granted to induce prompt subscription, and the shares were taken with avidity. Its beneficial effects were perceptible in the immediate relief of existing embarrassments, in the enhancement of the depreciated securities, in the stimulus it gave to trade, and the confidence inspired in the future, which was itself prosperity.

But this grant of unusual advantages to the small class fortunate enough to become proprietors of stock in banking corporations, was considered by many as opposed to

the principles of equality on which we had organized the government. Moreover, in the view of those who were well acquainted with the history of such institutions in other countries, the system adopted, in sanctioning large emissions of paper upon an inadequate specie basis, was pregnant with serious danger to the community. In this belief, Sullivan, a staunch republican, and determined to exert his influence, upon every fitting occasion, to keep the country true to the creed established by the Revolution, published, in 1792, his *Path to Riches*, "an inquiry into the origin and use of money, and into the principles of stocks and banks." In this treatise he sketches the history of money and of banking institutions, and endeavors to awaken the country to a sense of the various dangers and evils consequent on an inflated currency. He takes stronger grounds against monopolies and special corporate privileges than is consonant with the conclusions of the present day; and in other respects manifests a leaning to doctrines usually considered democratic. But his general views, expressed with vigor and originality, are sensible and moderate, and must secure the acquiescence of all who have paid due attention to the important subject under discussion.

His *History of Maine* appeared in the early part of 1795. He had been born in the district, had there enjoyed his greatest happiness in domestic life, and gained his first professional distinction. He was its frequent visitor in the discharge of his official duties, and enjoyed great facilities for collecting traditions and documents to illustrate its early annals. His studies, in preparing the claim of Massachusetts to the lands west of the Hudson, had made him familiar with all the early historians of New England, and his constant employment in real estate litigation, well acquainted with all the ancient charters and Indian deeds under which the eastern country had been settled. His efforts to procure information from the older inhabitants,

and all the various persons who attended the courts, were indefatigable. Some indulgence was allowed him as attorney-general, and it is said that, when he had exhausted the evidence of witnesses bearing on his particular case, he would frequently interrogate them as to the traditions of their respective neighborhoods, noting down their replies; and thus was able to save much interesting historical material, which, but for his timely labors, would have been irretrievably lost. Much of his work has been embodied in the more recent history of Williamson; but there will always be a large class of historical students glad to consult the original authorities; and Sullivan's history must remain of permanent, and, with the growth of the state, of increasing value.

His *Altar of Baal*, in vindication of the French revolution, appeared, as we have already mentioned, at the same time as his history. It was written in reply to a thanksgiving sermon by the Rev. Mr. Osgood, which had been preached at Medford the preceding November, and published and widely distributed for political purposes by the federal party. Mr. Osgood had not only denounced the principles of the French revolution, as leading necessarily to religious infidelity, but our own constitutional societies, and had rudely assailed the venerable patriot and father of the Revolution, Samuel Adams, then governor of Massachusetts. Sullivan, as the personal friend and political associate of Adams, was much incensed at this almost sacrilegious attack upon one whom he considered entitled to gratitude and veneration for his invaluable services to the country. He was, besides, not yet disposed to relinquish the hope that France would settle down at last under a sensible plan of government, and he felt that violent abuse, like that of Mr. Osgood, if made known to its people and received as an expression of the prevailing sentiment here, would create disgust with republican institutions, and prevent the efforts of her many sincere patriots to assimilate

her political system to our own. He had but two or three weeks for preparation, and the style, occasionally, betrays the hurry of its composition; but it is sensible and spirited, and, as far less has been said upon his side of the argument than upon the other, it may still find readers. It purported to be a sermon by "Citoyen de Novion;" and when under nomination for governor his opponents sometimes alluded to him as Jacques de Novion.

The treatise on the constitutional freedom of the press, published in 1801, is an able production. It was prepared at a period of much excitement upon the subject of the sedition law, then about expiring, and of which the renewal, then under consideration in Congress, was soon after defeated by the republicans. It questioned the constitutionality of the act, as a direct violation of the prohibition to Congress to make any law abridging the freedom of speech or of the press; and its expediency, inasmuch as the characters of the president and other public officers were already sufficiently protected at common law or by state statutes. The public acts of those in office, and the fitness of candidates for public employment, he thought proper subjects for discussion, but not their private character or conduct, except, where criminal, through the public tribunals. The rule adopted in some of the states, that the truth may be given in evidence in justification on charges of libel, he thought should be restricted to publications for which the motive was free from malice and for the public benefit. Inasmuch as, for the peace of the community, both law and public opinion prohibit private redress of injury, they are, for this reason, under the greater obligation to protect individuals from ill-natured detraction and scurrilous abuse. Our state constitution declares that the end of government is "to secure to the individuals who compose it the power of enjoying in safety and tranquillity their natural rights and the blessings of life;" and the most valuable of them all is a good reputation. Public ridicule creates an unjust

and injurious prejudice; but this, though contrary to law, it is difficult to prevent or to remedy. In charges of a more serious nature the maxim of the common law, that the greater the truth the greater the libel, is more consonant with justice, since public opinion is open to bias, and rarely can be a competent tribunal. While society has its criminal process and other better modes of reaching and punishing offenders, denunciations in the public prints only tend to deprive them of a fair and impartial trial.

He concludes that the constitutional liberty of the press is no sanction for attack on private reputation, which should be guarded as our possession next valuable to life, and equally precious to the public officer as to the private individual. Candidates for elective office should be open to scrutiny; but false statements with regard to them, as also concerning the public acts of the government, should be punished as criminal, unless made from mistake. The power, lodged by implication with the general government, to punish libels intended to impair or subvert its authority, should not be extended to cases of misrepresentation or abuse of the president or other officers. He closes with the opinion "that a reasonable constitutional restraint, judiciously exercised, is the only way in which the freedom of the press can be preserved as an invaluable privilege to the nation."

The subject was one of great interest at the time of its publication. All the more refined and intelligent in the community deeply deplored the slander and scurrility daily poured forth through the press. Its freedom had grown rank, and degenerated into licentiousness. Its virulence spared neither condition, character, nor the most meritorious service; and palpable falsehoods disgraced the columns of what were considered respectable journals. Other papers, making no pretension to decorum, and knowing no shame, were edited by foreigners, such as Callender, Cobbett and Paine, whose principal object was to secure

the sale of their publications by pandering to the general taste for detraction. The reproach of encouraging the abuse of their political opponents falls equally upon both parties; the federalists, who were generally from the wealthier class, having the advantage in this ungenerous warfare, from the larger number of newspapers under their control.

In August of the same year he published his *History of Land Titles in Massachusetts*. It was dedicated to Chief Justice Dana and his associates on the supreme bench, and he presented the copyright to the Historical Society. As the earliest effort in this country to embody the existing law in a special branch of jurisprudence, it deserves much commendation. Its method is excellent, its style simple and clear, and the philosophic view he presents of his subject interests while it instructs. From the constant legislative changes we have been making in this branch of the law, as, indeed, in every other, no text-book on real titles can long be of any value as an authority; and this has long since been superseded in this character by later works, which, in their turn, have given place to others. Its present claim to be included in a lawyer's library is for the historical light which it sheds upon the ancient system of real titles, and its gradual modifications; a principal object which the writer had in view in its publication.

In the prefatory address he pays due homage to the common law of England. While fully assenting to the propriety of its adoption as the basis of our own jurisprudence, he calls attention to the fact that already we had a similar system of our own, consisting of many time-honored customs, owing their sanction to general recognition. Having no reports, it was the more important to embody, in a form accessible to the student, those rules which depended upon the memory of the judges and the older members of the profession for transmission. The importance of cultivating our own common law, as distinct from that we had inherited from England, had been early perceived by him; and many

years before an able argument of his on this subject, in a case before the Supreme Court, had attracted notice and commendation.

He commences upon his main subject by stating the right of the aborigines to the country, under the general principles of public law as recognized by our own tribunals. A brief but lucid statement of the original European claims, by virtue of prior discovery and settlement, is followed by an account of the different grants under the Plymouth Company and Indian deeds. The body of the work offers a full view of our common and statute law on real titles and actions, with references to the leading cases decided in Massachusetts. Our own arrangements for the distribution and conveyance of real estate, and for securing its enjoyment to its legal owner, differed essentially from those of England. The great oracles, Coke and Blackstone, permanent authorities in all points where the two systems coincided, could not serve as guides for us where we had introduced changes adapted to our very different social condition. As Sullivan had been himself extensively engaged in the organization of our new system, and his own extensive practice had acquainted him thoroughly with its operation, he was well qualified for his task. The conclusion of the work requires no particular comment, as it will be found among the writings in this publication. There is little reason to suppose the original work will be again sufficiently in demand to be ever reprinted; but its closing portion contains many interesting reflections upon our institutions, and suggestions of alterations, which may possibly be deemed entitled to consideration.

Previous to the publication of the Land Titles, he had already made considerable progress in another work, entitled the History of the Criminal Law of Massachusetts. The manuscript was completed, but the sale of the Land Titles not reimbursing the expenses, he did not feel at lib-

erty to print it; though, from his familiarity, as attorney-general, with this branch of legal science, it seems reasonable to believe that such a volume would have been of great value. The fate of the manuscript is not known; but there is some ground for the belief that it is still in existence.

In the national state department at Washington is a large volume containing his memorials and arguments on the eastern boundary controversy; and in our own annals are a great number of petitions and memorials on various subjects. He was noted, as governor, for the frequency of his addresses and messages; and, from these and his proclamations, a selection will be found among his writings. His correspondence on the embargo, and with Sheriff Lithgow and others, upon the disturbances in Maine during his administration, have been separately published.

Of his correspondence very little remains. The letters that have been preserved are full of life and animation; and, if we may judge by the vast number he wrote in settling the question of the eastern boundary, he was, undoubtedly, as industrious in this direction as in every other. His own papers have long since been scattered or destroyed; and what it has been possible to collect have been kindly communicated by the descendants of his correspondents.*

Sullivan was prompt in rendering tribute to the memory of the revolutionary worthies, as they successively quitted the scene their virtues had ennobled, to reap in eternity the reward of their disinterested patriotism. His obituaries of Hancock, Samuel Adams, Dr. Cooper, Dr. Thacher, and many more, some of which are known, and others surmised upon very good grounds, to be his, are just and sensible, and are especially characterized by religious fervor and noble and generous sentiments. Thrown off in the first

* Should any one possessing any of his letters chance to read this volume, he would confer a great obligation by transmitting copies to the editor.

moments of regret at separation from his revered friends and companions, who had shared with him in the perils and perplexities of the war, as also in the subsequent joy and triumph, they came warm from his heart. Little time was allowed for their preparation, as they were expected to appear the day of the funeral, or immediately afterwards. But, with due allowance for the disadvantages under which they were composed, they are entitled to much commendation.

The presidency of the Massachusetts Historical Society imposed the obligation of contributing to its collections. In the belief that the traditionary lore of our early settlements, if preserved, must constantly become more valuable with their increasing population and prosperity, he exerted his influence to procure for the publications of the society histories of the ancient towns of the commonwealth. By way of example, he prepared for the first volume an account of Georgetown, the earliest European settlement in New England, and the spot which he had selected for his own abode when he commenced his professional career; and for the fourth a sketch of Thomaston. Before the present century we had no law reports in the country; and, realizing from his own experience their great value to the profession, where points of importance had been decided, by the way of inducing other members of the bar to coöperate, he gave brief statements of cases in his own recent practice when questions of interest to the community were involved.

His contribution of greatest length to the collections was a History of the Penobscots, the most considerable tribe of Indians in the district of Maine. A small remnant of this once numerous and powerful people is still to be found at Oldtown, near the city of Bangor. From his early residence in the district, and frequent official visits, as also in collecting materials for its history, he had become acquainted with their character and customs; and, upon

the commission to ascertain the St. Croix, under Jay's treaty, had been compelled to study their ancient traditional annals. His opportunities had, consequently, been highly favorable for procuring accurate information of this peculiar people, now rapidly disappearing, but who must ever continue to be interesting to the European race, who are turning their ancient hunting-grounds into fruitful farms and busy villages.

Such frequent reference has been made throughout our narrative to Sullivan as a contributor to the newspaper press, that no other notice is necessary here but an enumeration of the signatures over which he wrote. Of these but a portion can now be ascertained. He often changed them in order to express his opinions with greater freedom, and, purposely concealing his authorship, in many instances no indication remains to betray his secret. Productions, however, which may safely be pronounced his composition, follow each other in rapid succession for forty years in the different journals of New Hampshire and Massachusetts.

From allusions made in the public prints when he was a candidate for office, it would appear that he was well known a gazette writer before the Revolution, as was also his brother, General Sullivan. During the war, his essays were numerous, and on a great variety of topics. Besides those prepared with a view to keep alive the military ardor of the people, and to direct opinion in proper channels, to recruit the army, and reconcile the public to its burthens, he wrote much upon government in connection with the new state constitution, and upon the currency; a subject with which he was especially familiar, the supreme bench by law being charged with regulating its depreciations. He defended Hancock from the attacks of his assailants, and engaged with Mr. Temple and Dr. Gordon, the historian, in a warfare, which for two years occupied the columns of the Boston journals. Theodorus, Plain Truth,

Honest Republican, Zenas, and Americanus, were some of the signatures he employed at this period; the last being that by which he was most generally known, and one he continued to use at intervals to the close of his life.

After the peace, the people of Massachusetts, goaded by heavy taxes, general indebtedness, and consequent impoverishment, became restless. The scarcity of money, and wish to avoid ruinous sacrifices of property in satisfaction of debt, induced the adoption of a tender law. Persuaded this was the only practicable relief in the disturbed state of the currency for the intolerable distress which was everywhere experienced, Sullivan justified in the journals the propriety of such a law under existing circumstances; and it was made later subject of reproach to him that, but for his influence, it would have been repealed. His sense of the danger of informal grants of power to Congress induced him to oppose, over the signature of Grotius, a measure, proposed in 1782, for raising an impost by congressional officers; and, when the public faith demanded some sacrifice of extreme opinion, he wrote, in the summer of 1783, as Honest Republican, to prove that the grant of duties for fifteen years instead of twenty-five, the term suggested, was more than sufficient to extinguish the continental debt.

His pen was busily at work, in 1785, in urging the revision of the articles of confederation, and the adoption of some system of retaliation by which our manufactures and navigation might be protected from the injurious competition of Great Britain. In the following year, when Benjamin Austin, as Honestus, attacked the lawyers, Sullivan entered the lists in their defence as Zenas. In 1787 he resumed the subject, and published in the Chronicle three articles, signed Tully, in defence of the bar; and again in 1790, over the signature of Junius, when Counsellor Gardiner endeavored to reform the profession by legislation.

When the federal constitution was under discussion in the state convention, according to statements entitled to confidence, Judge Sullivan wrote a series of articles upon the subject, which were said to have been able and patriotic. Papers, signed Republican Federalist, in the Centinel, set forth the objections against the constitution, which, according to tradition, were with him frequent topics of discourse. But these were attributed, seemingly on good authority, to a gentleman of Plymouth. The only other disquisitions which possess internal indications of proceeding from his pen, and which coincide in opinion with his cotemporary correspondence, are to be found in the Massachusetts Gazette, and are signed Cassius. While recognizing defects in the system it was desirable to correct, they unhesitatingly advise its support as the best that could be hoped for in the actual state of the country.

In the opening scenes of the French revolution, Judge Sullivan expressed through the press his satisfaction at the emancipation of that country from her ancient thralldom, and was among the last to relinquish his faith in the eventual establishment of her liberties. He defended Genet and Duplaine, over the signatures of Junius and Americanus, and, in 1794, engaged in a vigorous controversy in their behalf, with John Q. Adams, who, as Columbus and Barneveldt, sustained the course pursued by government for their recall. He was said, at this period, to have been the most constant contributor of the day to the gazettes.* If true, he must have been a most prolific writer, for Ames and Adams were then busily engaged in filling their columns. Some of his communications are easily identified; others it is more difficult to establish as coming from his pen. Articles signed Tully, Republican Federalist, Aris-

* January 17, 1792. "If common fame whispers truly of a certain giant of the law, there is no man scribbles more for the newspapers than this same Zenas, sometimes on one side, again on the other, just as suits his convenience, being determined to pick up the apples of state."

tobulus, Juridicus, and two able articles upon the union of the states, were attributed to him, and very probably were his composition.

In 1798 the entangled relations of the two governments threatened to embroil us in hostilities with France. Disabused of the fond expectations he had cherished of her future destiny as a peaceful, orderly and happy republic, he still grieved to see America plunging into war with her ancient ally. In deprecation of so unfortunate a policy, he wrote a long letter, addressed to Judge David Sewall, then in Congress, signed Grotius, and contributed to the press many other communications.

In all the spring campaigns for state elections he zealously took part in support of the republican candidates; and, from their many allusions to historical facts but imperfectly known, many of these productions are still of value. During the presidential campaign of 1800, when the hope of forming a new party, to be called the Constitutionalists, was abandoned, he urged the claims of Jefferson to the presidency; and when the election was decided, in the spring of 1801, assailed the federalists and the Essex Junto, in his Signs of the Times, signed Federalis, which attracted much attention. When the midnight judiciary bill was repealed, in 1802, a long communication of his, signed Juridicus, was received with favor, as presenting an able exposition of sound views upon the subject of judicial tenures.

In 1803, as is more particularly mentioned hereafter, his son, William Sullivan, having joined the federalists, was appointed to deliver the Boston oration on the Fourth of July. To prevent a misapprehension as to his own political sentiments, Judge Sullivan immediately commenced a series of political essays, published in the Chronicle, entitled Democracy. They set forth what he deemed the true faith of an American patriot, and, with slight modifications, correspond with what is now professed as democratic

doctrine. They are signed Plain Truth, a *nom de plume* he had adopted during the Revolution, and frequently at subsequent periods affixed to his gazette articles. After his nomination, the succeeding spring, as the republican candidate for the chief magistracy, it is less easy to identify his contributions; but enough can be recognized to prove his high estimate of the power of the press in rightfully moulding public opinion.

In 1806, in the midst of this exciting canvass, Williams, the editor of the Chronicle, the chief democratic organ of the capital, not content with his compensation, resigned his post. As he was a foreigner, and this circumstance, in the actual state of public feeling, could be used for reproach against the republicans by their opponents, his defection was not very seriously regretted. It was at this particular conjuncture, however, attended with some inconvenience. To supply the gap till a successor could be procured, Austin, Lincoln, Morton and Blake, made frequent contributions to the paper; and if we may depend upon the conclusions of the opposite party, and the style to the experienced readily betrays the authorship, some of the more interesting at this period were Sullivan's own. The various replies to his individual assailants, the sketches of the federal and republican parties, the rights of jurors, and the reflections upon the death of Charles Austin, were all ascribed to his pen; but, as any attempt of the public prosecutor to influence opinion through the press in a case he was to try would have been indecorous, the latter probably were not his. Political essays from his pen continued to appear throughout his administration, up to the period of his death. Their authorship is clearly proved by the replies of his antagonists, or cotemporary comment. There are many more in the Centinel, Gazette and Chronicle, and papers published in other parts of the state, which contain much internal evidence of being his composition. To claim these, on any questionable author-

ity, would justly impair confidence in his claims to what are more fully authenticated. Various other communications are found, either signed by him, or which, from their subjects, he alone was sufficiently interested to have prepared, upon the constitution, the western lands, the eastern boundary, the canal, the aqueduct, vaccination, and in behalf of the various societies of which he was a member.

This is but an imperfect view of Sullivan's labors for the daily press. Where, as in America, newspapers are read with attention and intelligence by all classes of citizens, they mould public sentiment, and exercise no inconsiderable influence over public policy. This was particularly true in the early periods of our state annals. The most distinguished statesmen contributed to their columns; and their lucubrations, glowing with the ardent zeal and temper which then characterized political warfare, have preserved in vivid colors the history of their times. From being somewhat inaccessible, this branch of American literature has attracted less attention than it deserves. The essays of Franklin, John Adams, Hamilton, Fisher Ames and Madison, have been collected in their works; those of Samuel Adams, Hawley, Otis, Dr. Cooper, of the revolutionary period, of Levi Lincoln, General Heath, Benjamin Austin, Christopher Gore, Bradford, John Lowell, John Quincy Adams, and a numerous host of able writers, who later gave life and vigor to the press of Massachusetts, are at this day but little known. They offer an inexhaustible magazine of information to the student of history, of political wisdom to all statesmen who would take counsel of the past for their guidance aright through a difficult and dangerous future.

Sullivan was familiar with the Latin classics, and his knowledge of that language was exact and thorough. When de la Tombe, the French consul, left Boston, he presented Sullivan with an extensive collection of French authors. These he carefully read and made his own. He

was well acquainted with Shakspeare, and the standard writers of English literature; with ancient and modern history, and with metaphysics, and had zealously studied all the different branches of political economy and controversial theology. He was a diligent student of the Scriptures, had stored in his memory their most important texts and most eloquent passages, and his ready and appropriate use of them in his arguments and writings has been frequent subject of comment.

His writings were intended rather to convey thought, and influence public sentiment, than to build up a literary reputation. He was of opinion, inculcated in the education of his own children, that well defined ideas in the mind always suggest perspicuous expression; and this is a characteristic merit of his various productions. His style simple, and at the same time emphatic, his expressions well chosen, and his argument flowing, full and clear, evince the habits of a legal mind in its close connection. Never having enjoyed the advantages of a liberal education, and having had but few opportunities for study out of his profession, it seems remarkable that his composition should have been comparatively so free from faults; and the more, that he wrote much in court, with the hurry and bustle of its business going on around him.

The subjects of most of his works were suggested by the existing questions of the day; yet, however dry and abstruse might be his topics, he contrived, by his genial glow of thought, and ready stores of illustration, to invest them with charms still lingering about their pages. Many of his literary efforts were, from the nature of their topics, of transient interest. The place of others is occupied by later writers; but some will be found, it is believed, not without value to the present generation, from their sound views upon subjects of permanent and increasing importance.

As Americans we must ever cherish with grateful pride

the memory of those who achieved our independence, established our liberties on sure foundations, and wisely planned our admirable institutions. The area of rational freedom and good government is rapidly extending over the continent, and its happy and intelligent people, composed of the descendants of all nations, will learn with each successive generation to value more highly the blessings they enjoy. The fair fame of the patriot founders of the republic will be then the common inheritance of all; and it is fortunate that so many imperishable monuments remain, in their writings, of their ability and wisdom. Washington and Franklin, Adams and Jefferson, Jay, Hamilton and the Livingstons, are but a few of the many, whose able and eloquent productions will transmit to remote posterity the generous sentiments and wise statesmanship that marked our heroic epoch. In the enumeration of Sullivan's publications we would not anticipate the judgment of others upon their merit. Whatever be their destiny, whether doomed to oblivion, or permitted to descend to other generations, they must be acknowledged to breathe the same ardent patriotism and sincere desire to benefit the community, which inspired his more distinguished cotemporaries.

NOTE. — In the spring of 1809, not long after the death of Judge Sullivan, it was proposed to publish his miscellaneous works, with a memoir, to be prepared by one of his literary friends. If the impression as to the person who was to have performed this task be correct, his early departure on a foreign mission prevented its accomplishment. In the advertisement enumerating the pieces to be included in this publication, there is mentioned "An Address to Young Men on the Dangers of a Vicious Life;" but we have not been able to find this discourse in any of the public libraries or in the newspapers.

APPENDIX A.

THE following extracts from Betham and other authors may be interesting to antiquarians and genealogists, who, from kindred, curiosity or other motive, wish more particular information as to the facts stated in the first chapter of this work.

“The truth of Dr. Johnson’s observation, that ‘Ireland was anciently the school of the West, the quiet habitation of sanctity and learning,’ is satisfactorily established by English historians, as well as by the best-informed writers of the antiquities of that part of the United Kingdom. If we may credit the testimony of the venerable Bede, who lived in the same period in which Ireland was entitled to that enviable description, the Saxons, Angles and Gauls, sent thither many of their princes and nobles, to derive the benefit of pious and liberal education; and the most eminent teachers of northern and southern Britain had received their instruction gratuitously in Irish seminaries. By these literary advantages, in ages when other European nations were immersed in comparative ignorance and barbarism, the task of preserving the histories and genealogies of the Irish septs, which appears to have been from time to time the peculiar care of their chiefs, was considerably facilitated; and the solemn examination to which similar records were triennially subjected at the assembly of Tarah, has rendered their authenticity less questionable than that of records of the same nature in other countries. Of these records, several inestimable fragments are still to be found in public libraries; but the greater number were destroyed by the Danes and English. Their final destruction seems to have been intended in the reign of Elizabeth; when Sir George Carew, Lord President of Munster, afterwards Earl of Totness, and the other English commanders in the island, were charged to collect all the manuscripts they could, in order the more effectually to remove every vestige of antiquity and letters in the kingdom. That the dissolution of these venerable ties which attached particular tribes to their several chiefs was one of the primary objects of this measure, is evinced by the great care which the lord president

appears to have taken to inform himself of the origin and descent of the principal families. The original genealogies, compiled from the muniments so collected, are preserved in the archbishop's library in Lambeth Palace, MSS. XX., 635; and extracts by Vincent, and other antiquarians, remain in the College of Arms, London, as well as in the British Museum and other public libraries."

Our account in the text may not be precisely accurate, as we have not in this country either books or documents for full elucidation of family history, and we therefore present some of the data from which we have drawn our conclusions. These particulars appear sufficiently interesting to warrant their insertion, as well for the entertainment of the general reader, as for the instruction of descendants, and the information of the vast multitudes of the name who are now established in America.

The descent given by Betham is very much as follows: "Olioll Olum, king of Munster, whom the Irish chronicles deduce from Heber Fionn, one of the sons of Milesius, was the common ancestor of all the septs of distinction in Ireland. The period of his reign is fixed in the second century of the Christian era. By his consort Sadhbh, daughter of Conn of the hundred battles, monarch of Ireland, he had three sons, who left issue, namely, Eogan, or Owen More; Cormac Cas, from whom descended the O'Briens, Mac Mahons, and Mac Namaras; and Ciann, the progenitor of the O'Carrols and O'Haras. From Eogan More, who was slain at the battle of Magh-Mochruine, near Galway, are derived the illustrious septs of Mac Carthy More, and O'Sullivan, who had been in the exercise of the supreme authorities in Desmond, or South Munster, some centuries before the landing of Henry II., in 1172. The crown of Munster was, by the will of Olioll, settled upon the male issue and posterity of his two eldest sons,—Owen, head of the Eugenic line, and Cormac Cas, head of the Dalcassian,—by a succession which should be exactly and uninterruptedly alternate between both branches, with this particular condition and law, that the eldest prince, if capable of governing, should always succeed out of either branch. Desmond, or South Munster, was the separate dominion of the Eugenicians; Thomond, or North Munster, of the Dalcassians."

In Anderson's royal genealogies are long lists of unpronounceable names, with a few vowels to numberless consonants, designating from the days of the Pharaohs, with whose daughters they appear to have intermarried, these ancient monarchs. During the dark ages, many English writers describe their subjects in Spain and Ireland as immersed in barbarism; while others represent them as quite equal or superior in intelligence, enlightenment, government, commerce, and the arts of music and architecture, to any people out of Italy. What remains of their

ancient habitations and religious edifices furnishes some confirmation of the latter view.

The tribe of Eoganact Graffan, or O'Sullivan, being among those descended from Olioll Olum, was considered a free state, and so exempted from the payment of the annual fiscal tribute for the support of the household of the king of Munster. Among the nobles slain at the battle of Maigh Ailbe, 909, was O'Sullivan More, prince of Dunkerron; and in 943, when the great chiefs of Munster defeated the Danes, the O'Sullivan More was the general of the confederacy, and, in a personal conflict, slew Moran, son of the king of Denmark. At the period of the English invasion, Dermot Mac Carthy More, who held the chieftainship of his sept, by the title of king of Desmond, O'Sullivan More of Dunkerron, and O'Sullivan Beare of Dunboy in Kerry, are mentioned as the great Irish chieftains of South Munster.

Donell More, the eighth in descent from the first who assumed the name of O'Sullivan, and who was a lineal descendant of Eogan More, son of Olioll, was the ancestor of both branches of the O'Sullivans, the O'Sullivan More and O'Sullivan Beare and Bantry. The pedigree of the latter is derived from Philip, son of Donell More, and regularly continued in the Carew collection, above referred to, down to the reign of Queen Elizabeth. In 1549 Dermot O'Sullivan, lord of Beare and Bantry, then in possession of the whole territory, was accidentally killed by an explosion of gunpowder in his castle of Dunboy. He left three sons, namely, Donell, who was slain in 1563, leaving a son Donell, or Daniel, in 1593 recognized as prince of Bearehaven, and mentioned in the text as head of the Catholic League of Munster; Sir Owen, who succeeded his brother Donell as tanist, and who surrendered the country to Queen Elizabeth in 1572, and took back a grant of it by patent; and Sir Philip of Ardea. When Daniel came of age, he commenced a suit against Sir Owen for his inheritance, which ended in a commission issued under the great seal, the eighteenth of July, 1593, to divide the territory, as mentioned in the text, between the three branches; giving Daniel the castle of Beare, its haven and demesnes; Sir Owen the castle of Bantry and its dependencies, and Sir Philip the castle of Ardea and the country round about. After the defeat of the Catholic League, Daniel, in 1602, went into Spain, where he was assassinated at Madrid in 1618; and one of his descendants was there ennobled, for his distinguished services, by the title of Count of Bearehaven.

In the recital of Donell's allegation in the deed of the above mentioned partition, it is stated that Sir Owen had entered into possession of the lands upon the death of Donell's father, his elder brother, and in that usurpation had continued until, by the abetment of McCarthy More, created Earl of Clancare by Elizabeth, he had made the surrender to the

queen. To this Sir Owen replied that possession of that country had generally come collaterally to the uncles of the sons of the lineal line of Donell as tanists, and affirmed in proof that there had been in possession besides himself three that had been uncles to the children of the lineal line. This Donell alleged to have been by force when the nephews of the lineal line were within age, either by the support of the earls of Desmond or of the McCarties of Carbrie. This custom of tanistry, according to Vallancey, was an ancient law of succession, whether to regal power or to any princely dignity to which landed property was annexed; whereby the eldest male among the near kinsmen of the last ruling prince legally succeeding, of the same name and stock, was constitutionally to succeed him, by the right of seniority, unless some natural or accidental infirmity had rendered him manifestly incapable of governing. Tanist was therefore the title of the senior and presumptive successor in every princely family. From the exception made to the rule in this particular case, it would seem the tanist only held the reins of government while the heir was under age. Among a people so warlike, and constantly engaged in hostilities, it was of course all-important that the chieftain should have both wisdom and experience to command the respect and obedience of his people. The sept of O'Sullivan appears to have been numerous; for when, in 1600, a general amnesty being offered to all the province of Munster, four thousand pardons were issued, among those who received them were O'Sullivan Beare, with five hundred and twenty-eight of his principal followers; O'Sullivan More, with four hundred and eighty-one of his; McCarthy Reagh, with two hundred and ten.

When Sir Owen died, in 1613, his son Owen made claim, under the patent of 1572, to the castle of Ardea, then in the possession of Daniel, the son of Philip, who thereupon petitioned the lord deputy of Ireland for an official copy of the partition, and this copy was, in August, 1802, in the possession of Kerry O'Sullivan, his descendant, then living near the ruins of Ardea castle.

For many centuries prior to 1192 the principal seat of the chieftains of the sept was the castle of Knock Graffan,* in Tipperary, where eighteen of the early monarchs of Ireland had been born and reared. Their demesnes would seem to have then extended south to the sea. Twenty years after the English invasion they were driven into the mountainous region between and about the bays of Valentia and Bantry. The O'Sullivans More, princes of Dunkerron, resided two miles from Kenmare, at the castles of Dunkerron and Cappanacus, and other

* Knock Graffan castle was rebuilt in 1108, and again later by the English, and portions of its walls and moat are still preserved.

branches of their line at the castles of Dromanagh and Tomies. The younger brother of their representative, Sir Richard Joseph Sullivan, born in 1752, and distinguished as a writer and statesman, was created an English baronet in 1804, and his son and successor was killed at the sortie of Bayonne in 1814. The O'Sullivans Beare were settled about the bay of Bantry and lakes of Killarney, and their castles of Dunboy, Bantry and Ardea, were among their strongholds of which some vestiges remain.

The traditions differ as to the origin of the name. Two are here presented, and the reader can take his choice. Mrs. Hall, in her charming work on Ireland, gives the following account of one of these: "The hospitality of the MacSweeney and O'Leary is however eclipsed by that of another Irish chieftain, the ancestor of the O'Sullivans, a race of whom the legend says, '*Nulla manus tam liberalis, atque generalis atque universalis, quam Sullivanus.*' The name is said to have originated from the following circumstances. There chanced to arrive in Ireland, from Albany, a one-eyed Druid, who was also a bard, named Levawn. He was hospitably received by Eochy, chief of his name and nation, who had himself but one eye. When the Druid was departing from the castle he refused all the rich gifts offered him, but demanded from his host a present of his only eye. Eochy, impelled by generosity, at once tore it from the socket, and bestowed it upon his avaricious guest. There happened, however, at the time to be a holy man residing with the outraged Eochy; and, he indignant at such ingratitude, prayed that the Druid's eye might depart from its place, and together with his own become the property of Eochy. The prayer was heard, the chieftain became instantly the possessor of two eyes, and the Druid left the castle forever blind. Hence Eochy and his posterity obtained the name of Suil-Levawn-Levawn's eye." This story may be thought fabulous by some persons of a sceptical turn; but more truth is often conveyed in a fable than by any statement of mere fact. It is certainly susceptible of many interpretations.

The other hypothesis is taken from a curious and interesting work of Henry O'Brien, on the Round Towers, which, similar in form and character to many still existing in Asia, are found in Spain and other countries of southern Europe, and supposed to mark the progress of one branch of the Caucasian race through Greece, Italy, and along the shores of the Mediterranean, from their original dwelling-place in India. Of these, eighty-three, in different states of preservation, some of them one hundred and thirty feet in altitude, and varying in diameter from eight to fifteen feet, still remain in Ireland. For what purpose they were erected has not been ascertained. By some antiquarians they are conjectured to have been sepulchral or watch towers; by others, to have

been used by the Druids in their fire-worship and consecrated to Apollo or the Sun; a few writers consider them symbolical of other sacred mysteries of paganism.

Mr. O'Brien says that "in the deserted village of Knockmoy in Galway is the remnant of an ancient Tuath-de-danaan temple, vaulted with stone, and transformed in after ages to a Christian abbey. Here will be found, after a succession of at least three thousand years, this pathetic representation of the youth Apollo slaying with his arrow the serpent Python; or, in other words, overthrowing by self-endurance the dominion of sin, by immolation upon a tree, to which you see him pinioned; establishing ascendancy over the serpent and his wiles and pointing out the road to eternity beyond the grave. The Hindoo Puranas corroborate, to an iota, this our Knockmoy crucifixion. Sulivahana is the name which they give to the deity there represented. The meaning of the word is tree-borne, or who suffered death upon a tree. He was otherwise called Dhandandhara, that is, sacred almoner. And his fame, say the Puranas, reached even to the Sacred Island in the sea of milk, that is of Doghda, which signifies milk, and which was the title of the tutelar goddess of Ireland. The name of Sullivan, than which there is no one more common, is unquestionably but the perpetuation of the above Sulivahana. And I can give a proof of the fact, independently of its derivation. It is that a particular branch of that family, called the O'Sullivans of Tomies, have ever been looked upon with a feeling of reverence by the natives, almost approaching to veneration. I have in vain strove to ascertain from them the origin of this indefinable sense of sanctity. It was like magic upon their minds; they half-worshipped them, and knew not why. There were but two individuals of this stock remaining, when I was a schoolboy, a few years ago, at Killarney."

Which of these is the true theory is not for us to determine. It is to be feared they are both equally mythical. Mrs. Hall seems to be somewhat incredulous as to the last, but she was a Sassenach, and of course not predisposed to put faith in Irish marvels. She tells us that the O'Sullivan chieftains were among those privileged to possess a Banshee, a familiar spirit or tutelary genius, whose prophetic voice warned them of coming dissolution, and on some few other occasions was heard to whisper on the wind some monitions equally important. Among other supernatural endowments possessed by persons of the name, she mentions "that in the barony of Duhallo resided one whose business was that of a farrier, who had such an extraordinary power of subduing and controlling the vices of the horse, that the account would be incredible if the facts were not borne out by the testimony of many living witnesses. He was known throughout the country by the sobriquet of the Whisperer, the vulgar notion being that he whispered his commands into the ear of

the animal to be tamed. When sent for to exercise his skill, he usually ordered the horse to be taken into the stable, and after carefully closing the door remained with the animal about ten minutes. At the end of that time, he led it forth; generally placed his child upon its back, and made him ride it about the stable-yard. No matter how untractable had been the animal committed to his charge, its spirit was completely broken; horses which the boldest riders were unable to mount, the bravest smiths would not attempt to shoe, and which had been rendered completely valueless by vice, were restored to their owners as gentle and tractable as lambs. The effect was almost always lasting; but if the animal returned to its evil habits, a word, or a look from its controller were alone necessary; it knew and recognized the mysterious influence that had been exercised over it, and trembled, as the horse is said to do, when it encounters some preternatural object. Mr. Townsend relates an instance of an experiment upon a troop-horse, so vicious as to be altogether worthless, and in reference to which regimental discipline had totally failed, and the writer bears evidence to the complete success of the art from actual observation. I noted, he adds, that the animal appeared terrified whenever Sullivan either spoke to or looked at him. Mr. Newenham, who delineated and published the picturesque *Antiquities of Ireland*, informed us he had once a horse so vicious and untamable that, although an exceedingly fine and handsome animal, he had offered it for sale for four or five pounds. It had never been broke in; no groom was able to mount it, and to get it shod was impossible. Having accidentally heard of Sullivan's skill, he sent for him, and having agreed to pay him his usual fee of two guineas, in the event of success, the man and beast were locked up in a stable. At the expiration of a quarter of an hour, the latter was led out by the former, the nature of the animal completely changed. Sullivan not only placed his little boy on its neck, but actually under its feet; made the horse lie down and rise up at his command, enter the stable and come forth at his bidding; and made it manifest that, for the future, it might be consigned without danger to the care of the most timid boy of his manège. Mr. Newenham kept the horse in use for a year, rode it constantly himself, never found it in the least degree unruly, and eventually disposed of it for fifty pounds. He stated to us that when the animal was led out of the stable it was in a high state of perspiration, as if it had been driven rapidly for an hour; that it was quivering in every muscle, and seemed to have undergone some intense agony. Yet, neither in this instance nor in any other, was there detected the slightest evidence that the animal had been subjected to corporeal pain; although the minutest scrutiny was of course frequently instituted. The means by which Sullivan obtained this extraordinary power he never divulged." The persevering efforts of the most

experienced to discover his secret were completely at fault ; and this wonderful gift was looked upon by the ignorant and superstitious as somewhat uncanny. In our own day, however, the riddle has been solved, and the sagacity of Mr. Rarey has saved the memory of Sullivan from the imputation of having had any dealings with the evil one.

The passage cited in the text, from page 123 of the third volume of Macaulay's History of England, presents in vivid coloring the picturesque features of the ancient abode of the Sullivans : 'The south-western part of Kerry is now well known as the most beautiful tract in the British isles. The mountains, the glens, the capes stretching far into the Atlantic, the crags on which the eagles build, the rivulets brawling down rocky passes, the lakes overhung by groves in which the wild deer find covert, attract every summer crowds of wanderers sated with the business and the pleasures of great cities. The beauties of that country are indeed too often hidden in the mist and rain which the west wind brings up from a boundless ocean. But, on the rare days when the sun shines out in all his glory, the landscape has a freshness and a warmth of coloring seldom found in our latitude. The myrtle loves the soil. The arbutus thrives better than even on the sunny shore of Calabria. The turf is of livelier hue than elsewhere ; the hills glow with a richer purple ; the varnish of the holly and ivy is more glossy ; and berries of a brighter red peep through foliage of a brighter green. But during the greater part of the seventeenth century this paradise was as little known to the civilized world as Spitzbergen or Greenland.' 'It is impossible,' says Mrs Hall, in speaking of the Bay of Bantry, 'to do justice to the exceeding grandeur and surpassing loveliness of the scene ; and he must be indeed dead to Nature, who in beholding it does not drink in as delicious a draught as she, in the fulness of her beauty, ever presented.'

Master Sullivan of Berwick, father of James, when far advanced in years, wrote out the following statement of his family and origin, at the request of the wife of his son, General John Sullivan : "I am the son of Major Philip O'Sullivan, of Ardea, in the county of Kerry. His father was Owen O'Sullivan, original descendant from the second son of Daniel O'Sullivan, called lord of Bearehaven. He married Mary, daughter of Colonel Owen McSweeney of Musgrey, and sister to Captain Edmond McSweeney, a noted man for anecdotes and witty sayings. I have heard that my grandfather had four countesses for his mother and grandmothers. How true it was, or who they were, I know not. My father died of an ulcer raised in his breast, occasioned by a wound he received in France, in a duel with a French officer. They were all a short-lived family ; they either died in their bloom, or went out of the country. I never heard that any of the men-kind arrived at sixty, and do not remember but one alive when I left home. My mother's name

was Joan McCarthy, daughter of Dermod McCarthy, of Killoween. She had three brothers and one sister. Her mother's name I forget, but that she was daughter to McCarthy Reagh, of Carbery. Her oldest brother, Col. Florence, alias McFinnin, and his two brothers, Captain Charles and Captain Owen, went in the defence of the nation against Orange. Owen was killed in the battle of Aughrim. Florence had a son, who retains the title of McFinnin. Charles I just remember. He had a charge of powder in his face at the siege of Cork. He left two sons, Derby and Owen. Derby married with Ellena Sullivan, of the Sullivans of Bannane. His brother Owen married Honora Mahony, daughter of Dennis Mahony, of Drommore, in the barony of Dunkerron, and also died in the prime of life, much lamented. They were short-lived on both sides; but the brevity of their lives, to my great grief and sorrow, is added to the length of mine. My mother's sister was married to Dermod, eldest son of Daniel O'Sullivan, lord of Dunkerron. Her son Cornelius, as I understand, was with the Pretender in Scotland, in the year 1745. This is all that I can say about my origin; but shall conclude with a Latin sentence:

'Si Adam sit pater cunctorum, mater et Eva;
 Cur non sunt homines nobilitate pares?
 Non pater aut mater dant nobis nobilitatem;
 Sed moribus et vita nobilitatur homo.'

"J. S."

The following letter is that referred to in the text as written in Ireland the day Master Sullivan died at Berwick, in Maine: "A grand-uncle of mine having gone to America about sixty years ago, his relations have suffered greatly from being without the means of finding out his fate, till now that by great good fortune I am informed you are a son of his. If you find by the under account that I have not been misinformed, I shall be glad to hear from you.

"I am, sir, yours respectfully,

"PHILIP O'SULLIVAN.

"Ardea, May 16th, 1796."

"Mr. Owen O'Sullivan, son of Major Philip O'Sullivan, of Ardea, county of Kerry, Ireland, by Joanna, the daughter of Derby McCarthy, of Killoween, Esq., in said county. They were connected with the most respectable families in the province of Munster, particularly the Count of Bearehaven, McCarthy More, Earl of Clancare, Earl Barrymore, the Earl of Thomond, the Earl of Clencarthy, McFinnin of Glanarough, O'Donoughu of Ross, and O'Donoughu of Glynn, McCarthy of Carbery, and O'Donovan, &c."

APPENDIX B.

CELEBRATION OF THE DISCOVERY OF AMERICA.

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TUESDAY last, October 23, 1792, being the twelfth of the month, old style, and the day on which the third century after the discovery of America by Christopher Columbus was completed, that event was celebrated by the Historical Society of this commonwealth in the following manner :

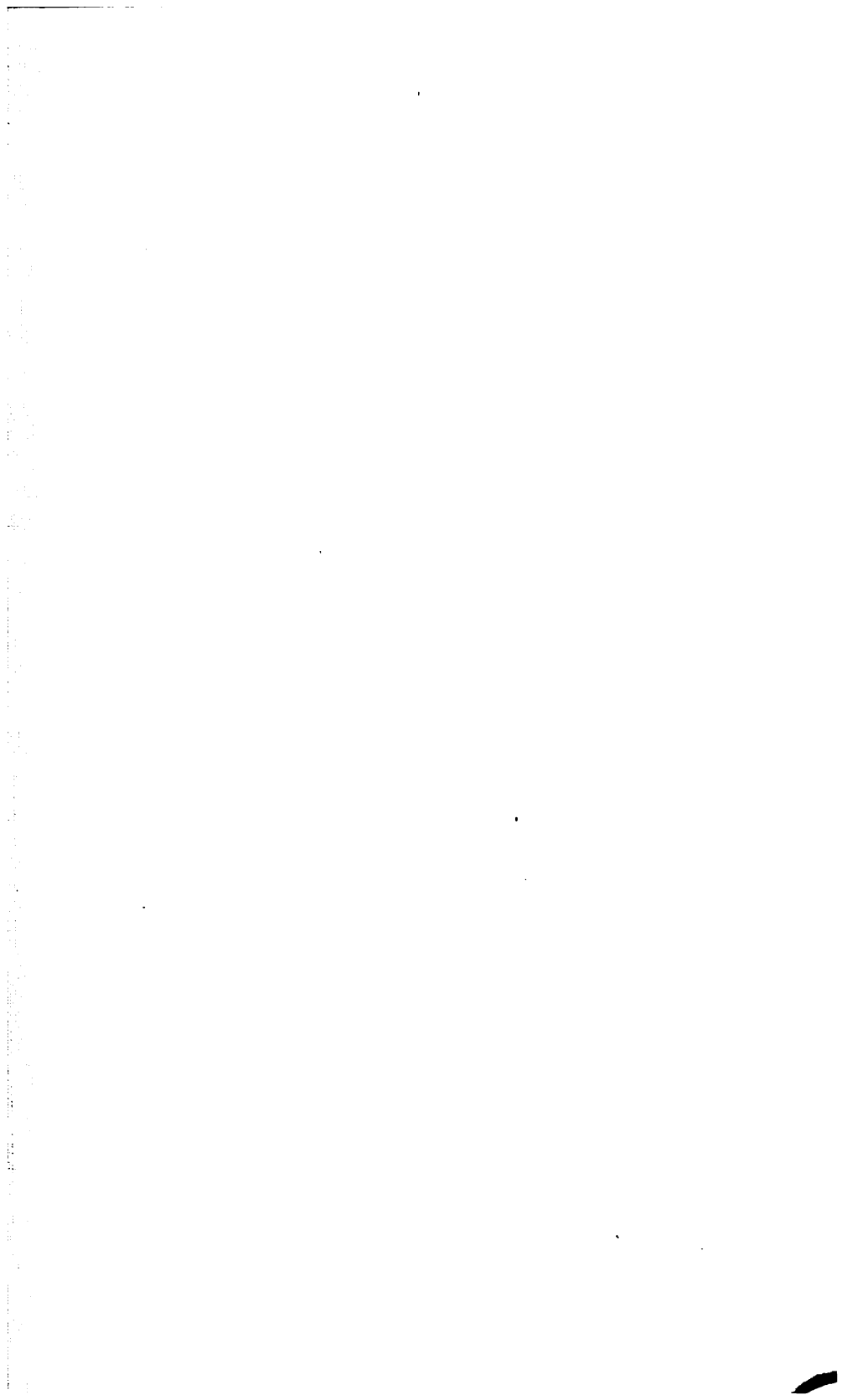
The members of the society having assembled at a quarterly meeting, held at the house of the Rev. Dr. Thacher, they proceeded from thence to the meeting-house in Brattle Square. Dr. Thacher opened the meeting with a prayer peculiarly adapted to the occasion. A discourse was then delivered by the Rev. Dr. Belknap, who had been appointed by the society for that purpose. This was distinguished by a deep research into the subject of the discovery of America, both as to the reasons which led to it, and its consequences ; by an entertaining account of the character and fortunes of the great discoverer ; and, above all, by a liberality of sentiment in politics and religion, which do honor to the age. After the discourse, a prayer, pertinent to the subject of the day, was made by the Rev. Mr. Eliot, and the whole was concluded with an Ode, by Mr. Rea and others, in concert with the organ.

His excellency the governor, his honor the lieutenant-governor, and such of the honorable council as were in town, favored the society with their attendance on this occasion ; and accompanied the members to dine with the Hon. James Sullivan, the president, at his house, where the memory of Columbus was toasted in convivial enjoyment, and the warmest wishes were expressed, that the blessings now distinguishing the United States might be extended to every part of the world he has discovered.

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